THE LAWIERS LOgike, exemplifying the *præcepts of Logike by* the practise of the common Lawe, by

Abraham Fraunce.

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To the Right honorable, Henry Earle of *Pembrooke, Lord Herbert of Cardyffe,* Marmyon, and S. Quynten, Lorde Præsident of the principality of Wales, and the Marches of *the same, Knight of the most noble order of* the Garter, and Lord Liuetenant of Wales, of the Marches, and of the counties of Wyltes and Sommerset.

IF Lawes by reason framed were, and grounded on the same;
If Logike also reason bee, and thereof had this name;
I see no reason, why that Law and Logike should not bee
The neareſt and the deareſt freends, and therfore beſt agree.
As for the fonde conceyt of such which neuer knew them both,
Better beleeue some mens bare worde, than their suspected oth.
I say no more then what I saw, I saw that which I sought,
I sought for Logike in our Law, and found it as I thought.
If all that I haue sought and found your Honor doe content,
(Let scribes and pety penmen talke) I thinck my time well spent,
And labour herein well imployd: Acceptance is my meede,
I craue no more, I haue no lesse, if you vouchsafe to reede.

Your Honors

most vnfainedly affectionate

Abraham Fraunce.

THE FIRST CHAPTER OF THE FIRST BOOKE.

What Logike is.

Logike is an Art of Reasoning.

Annotations.

ALthough this woord, *Logike*, bée generally receaued of Englishmen, and vsed euen of them that know no Logike at all, yet for that it was a stranger at the first, I thinke it not impertinent to sèke from whence it came, and what it doth betoken: λόγος, therefore in Grèeke signifieth Reason, of λόγος. is deriued this woord, λόγικη that is to say, Reasonable, or belonging to Reason, which although it bée an adiectiue, and must haue some such like woord, as Arte, Science, or Facultie, to be adioyned vnto it as his substantiue, yet is it substantiuely taken and vsed in Latine, as also in our English tongue.

Sturmius and some others, deriue this woord Logike from λόγος as λόγος betokeneth spèech or talke: whose opinion, although the other name of this Art (which is διαλεκτικὴ, of διαλέγεσθαι, to speak or talke) doe in some respect sèeme to confirme, yet for that the whole force and vertue of Logike consisteth in reasoning, not in talking: and because reasoning may be without talking, as in solitary meditations and deliberations with a mans selfe, some holde the first deriuation as most significant.

Dialectica & Logica, saith *Hotoman*, dictæ sunt a sermone siue oratione, sed illa propriè ab eo genere sermonis, qui cùm altero interrogando & respondendo commiscetur. Fictum enim verbum est παρὰ τὸ διαλέγεσθαι; quod est, verba cum altero commutare, colloqui, disputare, sermocinari, sermones cædere. Nam cùm philosophorũ consuetudo hæc esset, vt de rebus ad artes suas pertinentibus sæpè inter se commentarentur, eruditas illas collocutiones, διάλογος, (vt Laertius in Platone scribit) apellarunt, earumq; habendarum artem, Dialecticam, qua de causa eandem Laertius

eodem loco definit artem sermonis, per quam ex eorum quibuscũ sermo est interrogatione, & responsione aliquid vel confirmatur vel refellitur. Quod cùm ita sit, difficile dictu est, dialecticæ nomen non eius sermonis esse proprium, qui in dialogis habetur, cùm perpetua non continuatur oratio, sed in rebus singulis insistitur & intelligitur quid quisq; concedat aut abnuat, vt ex concessis disputatio concludatur. Et infra.

Ex quo intelligi potest, cùm & Græcorum & Latinorum consuetudine, nihil quicquam inter dialecticæ & Logicæ verbum, prẽter vocis sonum intersit, videri tamen Logicæ vocabulum, ad eam disserendi rationem quæ perpetua oratione constat, & quà hodiè plurimùm vtimur, ac multò magis ad eas disputationes quæ literis mandantur, accommodatum esse. Thus farre *Hottoman.*

Some others haue sayd, that this art may bée called λογικὴ, of the internall forme, essence, and nature thereof consisting in reason: but διαλεκτικὴ, of the externall maner and order of working, which is commonly done by speache and talke, as that word importeth, although Ramus vse them both as one, following Plato herein, who expoundeth διαλεγεσθαι, by τῳ λογῳ χρησθαι, which is to vse reason.

Diogenes Laertius in the life of Plato, writeth, that Plato was the first who called this Arte Dialectica, and Valla reporteth that Aristotle was the first that named it Logica.

λογίζεσθαι, hathe a certaine relation to accompts, wherevpon λογισμὸς, and συλλόγισμος, as also λόγος it selfe whence both they come, are vsed for accompting and deducting of summes, and by a Metaphoricall sence are applied to Logike, but especially to Disposition the second part of Logike, where discoursing and drawing of one reason from another is put downe. But vse hath accepted them in a generall sence for the whole Arte of Logike, as wée shall sée hereafter the like in those Latine wordes, Disserere and disputare.

[Is in Art:] An Art is a Methodicall disposition of true and coherent preceptes, for the more easie perceiuing and better remembring of the same: and this Methodicall or orderly disposition of diuers preceptes is taught in Logike, as perteining essentially therevnto. So that Logike was deseruedly called the

Art

of arts Aids, the inuentient of instrumentes, the hand of Philosophie, because by the helpe thereof, not onely the groundes of naturall reason are artificially put downe, but all other Arts also are made to be Arts, as wee shall hereafter shew when wee come to the place appoynted for the due explication of Methode.

It is therefore said here, that Logike is an Art, to distinguish artificiall Logike from naturall reason. Artificiall Logike is gathered out of diuers examples of naturall reason, which is not any Art of Logike, but that ingrauen gift and facultie of wit and reason shining in the perticuler discourses of seuerall men, whereby they both inuent, and orderly dispose, thereby to iudge of that they haue inuented. This as it is to no man giuen in full perfection, so diuers haue it in sundrie measure. And because the true note and token resembling nature, must bee esteemed by the most excellent nature, therefore the preceptes of artificiall Logike both first were collected out of, and alwayes must be conformable vnto those sparkes of naturall reason, not lurking in the obscure head-peeces of one or two loytering Fryers, but manifestly appearing in the monumentes and disputations of excellent autors. And then is this Logike of Art more certaine then that of nature, because of many particulers in nature, a generall and vnfallible constitution of Logike is put downe in Art. So that, Art, which first was but the scholler of nature, is now become the maystres of nature, and as it were a Glasse wherein shee seeing and viewing herselfe, may washe out those spottes and blemishes of naturall imperfection. For there is no one particuler nature so constant and absolute, but by examining and perusing her owne force, shee may bee bettered: no nature so weake and imperfit, which by the helpe of Art is not confirmed.

Hottoman in the third Chapter of his first booke hath these wordes: Estne igitur dialectica quędam naturalis, quędam artificiosa? nequaquam: sed eius initia & semina quędam in hominum mentibus natura ingenerauit, quæ cùm prędceptis ac disciplinà, tùm vsu & assiduitate excoluntur. Eademq; cùm aliarū artiū omniū, tùm prędcipuè Musicæ ratio est. Nā omnibus a natura rudis quędā canēdi facultas data est: ab arte verò, quā naturæ notatio atq; animaduersio peperit, certa ratio traditur. Nō enim ars naturā

imitatur tantummodò, verumetiam, vt veteres docuerunt, [illegible] mat & amplificat: causamq;, cur quidq;, vel hoc vel illo modo fieri debeat, reddit, quod prestare natura non potest, eaq; sola re artifex ab inscio discernitur.

Wasserleider therefore in seeking to reforme Ramus his Logike, bewrayeth his owne ignorance, for hauing first generally defined Logike to bee an Art, hee afterwardes diuideth it into naturall Logike and artificiall, as though the naturall faculty of reason were an Art of reasoning, which is contrarie to all reason, and includeth in it selfe a manifest contradiction. To conclude this poynt, there ought nothing to bee put downe in Art, whereof there is no ground in nature, for ars imitari debet naturam, and as that paynter is most cunning who can most liuely expresse his face whose counterfaite hee is to drawe, so hee that teacheth Logike must set forth no idle conceiptes of extrauagant braynes, but the true vse of naturall reason and vnderstanding: which is a necessary confutation of that absurditie mayntayned by Logicians, and inuented in Cloysters, that ficta, yea falsa exempla, bee good enough to make preceptes playne, whereas Plato in Theeteto calleth examples, ἐμπρεσ τᾶ λογᾶ sponsores & prædes rationes, tanquam ab eis fideiussum persolueretur. And Aristotle in the eight of his Topikes requireth such examples as Homer can afford, not such as the pelting Poet Cherilus did inuent.

[Of Reasoning:] This our English word, Reasoning, is more proper and fit to expresse the nature of Logike, then either that other word, of disputing, deriued from disputare, or the like, as disserere, and docere, vsed of Cicero and Melanchton: although I knowe that Beurehusius standeth in defence of these wordes, disserere, and disputare, which Ramus also vseth: and I am not much to mislike them in respect of any other Latine word, yet not altogether to compare them with this our English word of reasoning. For the word, disputing, which commeth of disputare, it is Metaphorical, as Varro reporteth, and so is disserere: the one being borrowed of the Vinemaysters, the other fet from the sower: for as the first cutteth off superfluous branches in his Vine, which is properly disputare, so the other disperseth his seed in diuers places, and not confusedly throweth

all on one heape, which is the natural signification of this word, disserere. Now because the Logician cutteth of all idle and vnnecessarie curiosities, whereof there is no vse in reasoning, seuereth truth from falshood, that which followeth from that which followeth not, order from confusion, and handleth diuers argu-ments and axiomes in diuers places distinctly, not euerie thing in euerie place disorderly: therefore hath hee friendly presumed vpon the good nature of these two countreymen, in using their words of husbandrie, to expresse a more elegant conceipt, al-though at the first not properly, yet by continuance of time, so conueniently; as that the Metaphoricall sence is now better knowne than the naturall signification. Yet for that both these rehearsed properties of Logike, be rather particular functions of methode, than general operations of the whole art, it is plaine, that this word disputing, with his originall disputare, and that, disserere, if you respect the naturall signification thereof, cannot expresse the whole nature of Logike. Although I am not igno-rant, as I said before, that Ramus and his interpreter Beurhusi-us, applie these words to the generall vse of this art, not restrai-ning them to those two functions belonging to methode: whose iudgement as vse alloweth, so I do not reiect, yet by their leaue leaue their Latine words behind our English.

Melanchton vseth this word, docere: Docere, is to teach, and Logike is an art of teaching: but then marke what I meane by teaching, for you must not restraine the signification of it in such sort, as though there were no teaching but onely in schooles among Philosophers and schoolemaisters, or in pulpits among doctors and diuines: but generally, hee teacheth, whosoeuer ma-keth anie other man know that, whereof before hee was igno-rant, whether hee do it by explication and illustration, or proofe and conclusion: and thus if wee take this word, docere, it is somewhat more generall than disputare, or disserere, put downe by Tully and Ramus: yet not so ample, as the nature of this art, whose vertue is seene not onely in teaching others, but also in learning thy selfe, in discoursing, thinking, meditating, and fra-ming of thine owne, as also in discussing, perusing, searching and examining what others haue either deliuered by speach, or put downe in writing: this is called Analysis, that Genesis,

and in them both consisteth the whole vse of Logike.

As farre then as mans reason can reach, so farre extendeth it selfe the vse and vertue of this art of reasoning, whose most ample and almost infinite vse and power, hath neuer had in anie tong a more generall and yet proper name, than this of reasoning, as wee vse it now adaies. Men reason in schooles as Philosophers, in Westminster as Lawyers, in Court as Lords, in Countrey as worldly husbands: whatsoeuer it bee, nay whatsoeuer thou canst imagine to bee, although it bee not, neuer was, nor neuer shall bee, yet by reason it is inuented, taught, ordered, confirmed: as the description of fame in Virgil, of famine in Ouid, of Elysian fields, of Styx, of Acheron, of the golden apples, and a thousand such poeticall imaginations. And therefore Logike hath beene of a long time vntollerably abused by those miserable Sorbonists, & dunsicall Quidditaries, who thought there was no reasoning without, Arguitur quod sic: Probatur quod non: no part of Logike without Ergò and Igitur. Whereas indeede the true vse of Logike is as well apparant in simple playne, and easie explication, as in subtile, strict, and concised probation. Reade Homer, reade Demosthenes, reade Virgill, read Cicero, reade Bartas, reade Torquato Tasso, reade that most worthie ornament of our English tongue, the Counteſſe of Penbrookes *Arcadia*, and therein see the true effectes of natural Logike which is the ground of artificiall, farre different from this rude and barbarous kind of outworne sophistrie: which if it had anie vse at all, yet this was all, to feede the vaine humors of some curious heades in obscure schooles, whereas the Art of reasoning hath somewhat to doe in euerie thing, and nothyng is any thing without this one thing. Some Artes are appliable onely to some certayne subiect, but Logike is scientia scientiarum, as I sayd before, not tyed to one thing, but apt for anie thing, free from all, yet fit for all, framing orderly, proouing strongely, expounding playnly, perswading forcibly, any Arte, any cause, any question, any man whatsoeuer.

What then, will some man say, neede wee any other Arts, if Logike alone can suffice for all? I aunswere, Logike alone is sufficient to helpe all, yet Logike suffiseth not for all. Logike telleth how to reason, dispute, examine, proue, or disproue any

thing

thing, but the thing that is to bee reasoned, disputed, examined, proued or disproued, that Logike cannot affoord, and therefore it is to bee sought for at such Arts, as professe suche thinges, so that Logike is profitable vnto all, and yet not any of them vnprofitable: but euen as they without this bee mangled and confused, so this without them is bare and naked. Logike is necessary for a diuine, yet Logike yeeldeth no diuinitie: but when a Preacher hath by continuall perusing of the sacred Scriptures furnished himselfe with store of matter, then Logike wil teach him how to teach others, & not onely that, but also how to learne himselfe, to defend, to confute, to instruct, to reprehend. Logike sheweth generally what an argument is, and how to vse an argument, but the seuerall argumentes are elsewhere to be had. For as Arithmetike teacheth to counte money, not to finde money, and Geometrie to measure ground, not to purchase grounde: so Logike can tell you howe to reason of thinges, and yet reserueth the peculier doctrine of the same thinges to the seuerall professors thereof. I doe not denie, but one and the same man may purchase ground, measure ground, and also reason of the same ground, but hee purchaseth it by one Art, measureth it by another, and reasoneth of it by a third, hee purchaseth it as a worldling, measureth it as a Geometer, reasoneth of it as a Logician: and although one man may be furnished with all these three properties, yet euery Art must haue her owne by the lawe of Iustice, confusion must bee auoyded, and the preceptes of euery Art distinctly put downe, although the vse of the same preceptes may be common and concurre altogether in one man, if one man bee skilfull in all these Artes.

Ramus addeth this word, well, in the ende of the definition, which me thinkes were as well left out as put in, for although it may seeme to seuer the perfection of Art from the imbecilitie of nature, yet indeede, the very name of an Art, includeth this word, well: euery Art being an habite of doing that well whereof it is an Art. Howsoeuer it bee, it appeareth, that to reason well and artificially, is the duetie and ende of Logike: for it is not essentiall vnto Logike alwayes to perswade, no more then to a Phisitian alway, to heale, but to performe those

thinges which are prescribed in his Art, although the hoped euent and successe do not alwayes ensue.

The second Chapter.

Of the partes of Logike, and the seuerall kindes of Argumentes.

THere bée two partes of Logike, Exposition of the nature of argumentes, and Disposition of the same. Exposition is the first part of Logike which expoundeth the diuers kindes of argumentes by their seuerall affections and mutuall relations one to another, which for that it helpeth to inuent argumentes, is called Inuention. An argument is any seuerall conceipt apt to argue that whereunto in reason it is referred.

First, an Argument is either inhærent, or set elsewhere. Inhærent is that which is inuented by consideration of the nature of the thing argued: and is either originall and first or secondary and deriued. First is that which hath his beginning of it selfe. It is agréeable or disagréeable. Agréeable is that which agréeth with the thing which it doth argue. The agréeable is either fully agréeable, or agréeable in part: fully agréeable is that, where there is a greater cohærence and affinitie betwéene the argument and the thing argued: fully agréeable is first, the cause and the thing caused.

Annotations.

THe Art of Logike, as is declared already, layeth downe the right vse of naturall reason: and this that wée call shewing or declaring how to reason, is no giuing of reason to him that had it not, but an applying or directing of the minde to the view and contemplation of that, which of it selfe it might perceaue, if it were turned and framed thereunto. For, as Plato sayth, 7. de repub. the trueth of the things comprised in Arts is as naturally propounded to the viewe of the minde, as colours bée to the sight of the eye: and therefore Aristotle in his first booke

of

of Elenchs hath set downe that which common experience doth confirme, that euery common person or silly soule vseth Logike in some part, and practiseth of himselfe by naturall instinct that which artificiall Logike doth prescribe in her seuerall rules and constitutions. Artificiall Logike then is the polyshing of natural wit, as discouering the validitie of euerie reason, bee it necessary, wherof cometh science: or contingent, whence proceedeth opinion. Although I knowe there is a great controuersie and contention among the auncient Philosophers, concerning these two: whilest some of them mayntayne onely Science, some others holde with opinion onely. Heraclitus called opinion the falling sickneſſe, for that thereby men many times fell headlong into diuers delusions and erronious conceiptes. So in like maner, the Stoikes held this for one of their Paradoxes, that Sapiens nihil opinatur, a wise man is not opinatiue, a wise man neuer iudgeth according to opinion. On the other side Anaxarchus was of this opinion, that all mans iudgment was but opinion, and that his vnderstanding coulde perfitly vnderstand nothing, which the Pyrrhonians taught after him, and the new Academikes: and a man may coniecture that Plato and Aristotle sometimes inclyned that way; for Plato in his booke called Timeus, ascribeth truth to God and Gods childzen, leauing nothing but truelike to mortall men, and Aristotle in the second of his Metaphisikes compareth mans vnderstanding in respect of perfect knowledge of trueth to the dazeling eyes of a Batt in the broade day light. But yet notwithstanding these forealledged places, both Plato and Aristotle haue elsewhere euidently declared that man is capable both of Science and certayne knowledge, as in thinges contayned in Arts: and also of opinion, as in infinit affaires which are dayly incident: and this was long before their tyme, elegantly put downe by the famous Poet and Logician Parmenides.

χρεὼ δέ σε πάντα πύθεσθαι,
ἠμὲν ἀληθείαν εὐπειθέος ἀτρεκὲς ἦτορ,
ἠδὲ βροτῶν δόξας, τῶν οὐκ ἔνι πίστις ἀληθὴς.

Oportet verò te omnia nosse,
Tùm veritatis suasu facilis sententiam,
Tùm verò mortalium opiniones, quarum non amplius fides vera.

Because of these two kinds of conceiptes, Aristotle wouldè nèdes make two Logikes, the one for Science, the other for Opinion: wherein (if so it may be sayde of so great a Philosopher) it sèmeth hè was but an Opinator. For although among thinges conceaued and knowne, some bè necessary and vnfallible, some doubtfull and contingent, yet the Arte of Knowing and Reasoning of the same (I meane Logike) is only one and the same, as the sight of the eye in perceyuing all colours, bè they chaungeable or not chaungeable. And aswell might a man say there must be two arts of Grammer (if Grammer bè a distinct Art) one for courtly spèche, an other for country talke: or two distinct arts of making of cups, one for golden cuppes, an other for cuppes of siluer, as two Logikes, one for vnfallible Argumentes, and another for Contingent. Therefore one Logike suffiseth to dispute of all thinges, necessary or contingent whatsoeuer. Yet this one Logike her selfe in respect of her preceptes is alway necessary and neuer contingent, for otherwise it were no Art, but the application of it may bè in contingent causes aswell as necessary.

[Two partes of Logike:] The Stoicall diuision of Logike into Inuention and Judgement, although both Aristotle himselfe sèeme to commend it in some places, as in 8. Topi. 3: Rhet: and Tully and Quintilian dw altogether obserue it, is yet reprehended of some, who thinke that Judgement is not any seuerall part of Logike, but rather an adiunct or propertie generally incident to the whole Art: because, say they, there is vse of iudgement euen in inuention. But in my fancie they might better haue founde some fault with these wordes, Judgement, and Inuention, then reprehended the distributton, which is most true, if they consider what the Stoikes did vnderstand by these wordes. For by the first part called τοπικὴ, they intend the explication of the diuers kindes, natures, affections, relations, and proprieties of seuerall argumentes, which because it helpeth inuention, is called Inuention, as I sayd before: although indèede a man shall no more finde argumentes by this first part of Logike, then hè shall get Latine words by Etymologie the first part of Grammer: which made me alter the words, as not proper, but rather borowed from the Mathematikes, where two

or three numbers being receiued or put downe, a third or fourth number proportionable is found out, which of them is called εὕρεσις, Inuention.

And by κρίσις Iudicium, Iudgement, is meant nothing els, but a Disposition, ordering or placing and setling of these seuerall argumentes alreadie inuented, to the intent that a man may the better iudge of them, so that here Iudgement is taken for Disposition, the effect for the cause, for Iudgement ariseth of the ordering and disposing of arguments.

They might therefore haue chaunged the wordes, and kept the thing, which yet they haue not done: but brought in new diuisions of Logike, correspondent to the setling and placing of Aristotles Logicall discourses in his booke called Organon: sometimes into three partes, as Apodicticall, Topicall, Elenchticall, sometimes into two, by name Apodicticall and Dialecticall. Topicall, or Dialecticall they will haue to bee a seuerall kinde of Logike by probable argumentes. Apodicticall, that which disputeth by necessary conclusions, as though there were not one and the same Art, Science, and order of reasoning both by probable and necessary argumentes, as I sayde before, and the selfe same places of argumentes both in the one and in the other, as causes, effectes, subiectes, adiuncts, &c. both contingent and necessary. For, as for that third kinde of Logike, which they call Elenchticall, seeing it is no Logike at all, but rather the abuse and peruersion of Logike, I see no cause why it shoulde be taught in Logike: yet if any man thinke that the true preceptes of Logike once knowne, will not be sufficient to descry the falsenesse of sophisticall argumentations, he may for his contentation seeke for a full discourse thereof out of some commentarie, and not ouercharge the Art it selfe with vnnecessary institutions. I graunt there is something profitable in the Elenches, as also in some other tractates of the same kind, but if wee shall put downe all in Logike, for true Logike, which doth in any respect helpe Logike, wee shall neuer make an ende of Logike.

[Exposition is the first part:] As in Grammer, Aetymologie concerneth seuerall wordes, and Syntaxis the due coherence of the same, so Exposition the first part of Logike, declareth the particular affection and nature of euery seuerall argument, and

Disposition the second part, by ordering and setling the same, causeth iudgement and vnderstanding. And as seuerall words bee in respect of Grammer, so seuered reasons in respect of Logike, and as of many words is made speech, so of diuers arguments arise arioms.

Exposition and Disposition are not two seuerall arts of Logike, as though wee should haue one Logike to expound the natures of seuerall arguments, and another to iudge of the same by Disposition, but they bee two essentiall parts of the whole, which ioyned togither make one true Logike.

The doctrine of Inuention or Exposition is generall, and not restrained onely to the finding out of a Medium, which they commonly take for the onely argument, but absolutely and vniuersally appliable to the inuenting of any thing, either true or fained whatsoeuer.

Againe, the arguments in Inuention must bee considered seuerally, singlely, and alone, then after to bee disposed and ordered by certeine precepts, thereby to iudge of the truth or falsenesse of the same: as for example.

Paris A good sheepheard.

These two singly put downe as two arguments, to wit, the subiect and the adiunct, are afterwards disposed in an axiome, to iudge of the truth thereof, as thus:

Paris is no good sheepheard.

But because this proposition is contingent and doubtfull (for the arguments bee but in part agreeable) therefore it is confirmed by another argument, that is to say, by an effect and working of Paris, I meane that which Thomalin putteth downe in July, in these words.

But nothing such thylk sheepheard was
whome *Ida* hill did beare:
That left his flocke to fetch a lasse,
whose loue he bought too deare.

So then, heere bee three seuerall arguments, or two ioyned in the axiome before, and the third following in these verses of Thomalin; which third they call, Medium, or third argument, thus:

a Paris

1 *Paris*: 2 A good sheepheard.
3 To leaue his flocke to fetch a lasse.

Whereof it is concluded in this wise syllogistically, by disioyning the two first arguments, the subiect and adiunct, Paris, and, The good sheepheard.

Hée that leaueth his flocke to fetch a lasse, is no good sheepheard:
But Paris did leaue his flocke to fetch a lasse,
Therefore Paris is no good shæpheard.

That which they call Medium, and third argument, is, as it were, an Arbiter honorarius, a determiner, a reconciler, a daies man: which if it agrée with both the other arguments, maketh the conclusion affirmatiue: but negatiue, if with one onely, as in the former example of Paris, the Medium, the arbiter, the determiner, is that effect of Paris, To leaue his flocke to fetch a lasse: which because it is agréable with the nature of Paris, but is flatly repugnant to the dutie of a good shæpheard, therefore is the conclusion negatiue, Paris is no good shæpeheard. So in Maister Ploidens reports, fol. 474. Saunders is a murderer. The Mediū is that effect of Saunders, to minister venim to the intent to poyson: which, because it agréeth as well with the nature of murder, as the affection of Saunders, maketh the conclusion affirmatiue, thus:

Hée that doth minister venim to poyson any one, is a murderer:
But Saunders ministred venim to poyson one,
Therefore Saunders is a murderer.

In this order, first of single arguments wée make axioms: which axioms, if of themselues they bée perceiued and graunted, they bée straightway iudged as true or false. And this is the first part of iudgement in axioms, called axiomaticall, determining only truth and falsenes in propositions or axioms. Now if these propositions bée doubtfull, then therof be made questions, which are to bée proued by third arguments, fet from the affections of the other two which were ioyned in the axiome, and lastly are to be concluded by syllogisme, the onely iudge of all coherence or consequence: as finally, Methode hath only to deale with the ordering and setling of many axioms, thereby to giue sentence

of methodicall proceeding or vnorderly confusion. And therefore I see no reason why I should with the common Logicians, chop in Canons, Maximaes, and rules of consequence, as they call them, applying them to euery argument of inuention, seeing that syllogismes, and onely syllogismes are the true and onely rules of consequence and inconsequence, as I said before.

The occasion, as I thinke, of this their errour, hereof arose: because if an Enthymeme be denied, we cõmonly confirme it by some axiome, which indeed is nothing els, but the supplying of the part wanting, as either the Maior, or Minor, as they terme them, or els some prosyllogisme. And this rule, Canon or Maxima, being so supplied, a plaine syllogisme procedeth, the onelie determiner of coherence. And as all the force of consequence is in syllogismes, so all the vertue of arguing is in the seuerall affection of euery argument to the thinge argued: whiche affection is truely and artificially put downe in Inuention: in such sort that from euerie definition, and precept in Inuention, such rules, maximaes, canons, axioms, consectaries, corollaries, or howsoeuer you tearme them, may easily bee deduced: and, when necessitie requireth, shall be of vs put downe distinctly in their seuerall places. For, as for most of those outworne maximaes hudled vp in schooles, they be either vnnecessarie, and may bee easily perceaued by the definitions and explications of the arguments, or els not generally true, but in part: and therefore in no wise to bee put downe in art, but rather to be reserued for Commentaries, as that, Quod efficit tale, magis est tale, &c. which cannot stand, but by a number of friuolous and sophisticall distinctions. Let him read Beurhusius, if any list to see the true canons of Ramus his Logike, compared at large with these lame rules. It shal suffice at this time to vnderstand, that ỹ true maximaes, or canons of Inuention, are nothing els but certain rules concerning the seuerall force or affection of arguments: The canons of axioms, such precepts as declare the vse & force of axioms: and so, in a word, the canons of syllogisms and methode, are precepts touching the consequence and inconsequence of the one, & the perspicuitie or confusion of the other. Neither are there any rules of consequence at all, but only those of syllogisms. I haue in my text kept my selfe onely to such maximaes

both

both in Inuention and Disposition, as are put downe orderly by Ramus, and are essentially belonging to this art: yet for the satisfying of the expectation of some young Logicians, somewhat vnacquainted with this newfound Logike, as it pleaseth some to learne it, I will hereafter, as occasion shall serue, put downe in the annotations, some of the other stampe.

But here may a doubt arise: For, seeing that euery axiome and rule of Inuention is a part of Iudgement (because it is an axiome, and euery axiome is of iudgement) it may seeme that Inuention and Iudgement be not distinct parts, but rather, as was obiected before out of Carpentar, confounded the one with the other. I answere, the rules and precepts of Inuention bee indeed axioms, and therefore consequently proceed from Iudgement: but so, as you must take them to be the fruits of Iudgement already shewed in ordering the axiomes and rules of Inuention: or examples of Iudgement, teaching the part of Inuention: Not as though these precepts were put downe in Inuention to teach a man how to iudge, either axiomatically, syllogistically, or methodically, which onely belongeth to the second part of Logike called Iudgement or Disposition: And if you so take them, then euerie axiome is not straight way a part of Iudgement: but onely such rules and precepts, as teach to make, order, and frame axioms. For otherwise, euery precept of euery art, because it is an axiome, should bee taken for a part of Iudgement in Logike: whereas indeed they bee but the fruites and examples of that Logicall iudgement appearing in the orderly constitution of euery art. And so in Inuention, euery rule is an axiome, euery rule doth iudge, but euery rule teacheth not how to frame an axiome, euery rule sheweth not how to iudge, which onely is the peculiar duetie of Logicall iudgement.

The art and doctrine of euery argument, is distinct, firme, constant, and immutable: yet the affection of arguments may bee altered, changed, and diuersly considered, either in the same things diuersly compared among themselues, or in one thing referred to diuers, as in those examples, put downe by Beurhusius and Talæus.

God	Created man.	So the affectiõ is of the	Cause procreant wõ the effect.
	Preserueth man.		Cause conseruant wõ the effect
	Is not man.		Disparats among thẽselues.
	Is not like man.		Unlikes among themselues.

Where the things be as they were, I meane, God, and Man, which are heere compared togither, yet the diuers kinds of relations and respectes, make the selfe same thinges haue diuers names and titles, according to their seuerall and diuers affections.

In like manner also it is, if one thing be referred to many, and drawne, as it were, through the places of arguments, although some arguments bee not incident to some things:

As, Man referred vnto	God, his maker,	hath ỳ affection of	Effect procreated.
	Body, his matter.		Effect materiall.
	Reason his forme,		Effect formed.
	Gods glory, his end,		Effect finall.
	Actions, his effects,		Cause.
	Body, his part,		Whole.
	World, his whole,		Part.
	Liuing creature, general,		Speciall.
	Paule, speciall,		Generall.
	Earth, subiect,		Adiunct.
	Riches, adiuncts,		Subiect.
	Tree, his disparate,		Disparate.
	Beast, contrary,		Contrary.
	Homo ab humo, the notation.		Name interpreted.
	Reasonable, liuing,		The thing defined.
	Creature, definition,		Equall.
	Angell, equall,		Like.
	Blub, like,		

Yet the art is certeine and immutable, for, that which is a cause, can neuer bee an effect in the same respect and relation, which relation chaunging, altereth the argument, not the art.

[An Argument:] Euery thing hath his seuerall name according to his naturall proprietie, or by the imposition and fancie of man, but Logike respecting a second vse in these seuerall things,

thinges, hath giuen them an artificiall and secondary name. As, fire hath this his name vsually knowne: but because it is sometimes considered of Logicians, as a cause of heate, therefore hath it his second note and name, and is called a Cause, one of the arguments, for that it argueth heate as his effect, and so in others. And by this affection wee learne whether one argument agree or disagree with another, and how it agreeth, whether as a cause with his effect (which is an absolute and full agreement) or as an adiunct with his subiect, which is but an agreement in part, and after a certeine manner, and so of the rest. So that argumentes bee nothing els, but singularum rerum affectiones extrà collocationem consideratæ, quibus ad arguendum sunt affectæ & comparatæ, sed vt Grammatica non voces, non vocum significationes, sed vocum affectiones, sic Logica non res, non rerum naturas, sed rerum inter se habitudines explicat. Itaq; omnia argumenta sunt relata: sed quia istæ relationes variæ sunt, itaq; varia sunt argumentorum genera. This affection of argumentes is by Hottoman expounded in this manner. Affectio ista est ratio quam quæq; res habet ad alterã. Græci λόγον appellant; itaque commodius rationem appellare possemus, sed vitandæ ambiguitatis causa, nomen affectionis delegimus, quo eodem *Cicero*, & in topicis, & in partitionibus hac eadem in re est vsus. Rationis autẽ verbũ à Mathematicis sumptum est, qui λόγον definiunt duarum eiusdem generis quantitatum comparationem; interpretes proportionem Latinè nominarunt: quidam habitudinem: nonnulli habitum: qui commodius, respectum: barbari fortasse correspondentiam appellarent. Huius vis ac facultas ea est, vt declaret, quænam rei cuiusq; cum altera ratio sit, quemadmodum inuicem affectæ sint, quo modò se inter se habeant, qualis inter ipsas comparatio aut affectio sit, sitne pars an totũ, genus an species, consentanea an dissentanea, &c.

[To argue:] To argue, is generall; either in inuenting onely one argument by the affection of the other, as when by the notion of the cause we seeke the effect, or els in placing them ariomatically, syllogistically, or methodically, wee argue some other thing either by explication or confirmation. The first consideration is of arguments seuerally conceaued piscator in Ramã.

argue by { explication / cõfirmation

and alone by themselues, the second as they bée placed by disposition: and therfore Piscators animaduersion in this place is to small purpose, whereas hée reprehendeth Ramus, for saying that euery seuerall thing considered alone is an argument. For he in so saying meaned not, that an argument should bée so alone, as though it had no affection or relation to any other thing, but so seuerally considered, as that in Inuention we should not intermeddle with axiomaticall, syllogisticall, or methodicall conioining and setting together of the same seuerall arguments, for that doth wholy and only belong to Disposition.

[Any seuerall conceipt:] Except those wordes which do but bind and knit together the parts of spéech, as coniunctions, which signifie no seueral and distinct thing in nature. Except againe copious and Rhetoricall phrases, where many wordes expresse but one thing, as, A man of an excellent and heauenly wit, where the words be many, the arguments but two, that is, the subiect and the adiunct. Lastly, except full comparisons, diuisions, definitions, and descriptions, where the argument is put downe in a whole proposition. This is Beurhusius exception, although to small purpose: for Ramus saith not, all such wordes as are alone, but all such reasons, conceipts, and thinges as are alone, and by themselues conceaued seuerally, as these arguments bée which hée héere excepteth: for though there bée many wordes, yet they all expresse but one conceipt of reason, and that is this single and sole argument which wée héere talke of.

But to let that passe, hée that taketh this word Argument, onely for a prowfe or confirmation, deceaueth himselfe, and bereaueth Logike of halfe hir dignitie. Indéede it is vsually taken for that thing onely which doth prowue and confirme, but héere it hath a more generall signification, and betokeneth not onely confirmations, but also declarations without any syllogisme or forme of concluding, and so doth arguere in Latine signifie, declarare, ostendere, perspicuum manifestumq; facere, vt in Virgilio.

Degeneres animos timor arguit, *id est*, ostendit.

Yet neuertheleſſe the same kinde of argument may commonly

monly serue both to declare and to confirme (although some there bée which onely declare) so in the end of the first Aegloge of the shepheardes Kalender, Hobbinol vseth an argument of the cause, onely for explication sake.

Ah faithlesse *Rosalynde*, and voide of grace,
Thou art the roote of all this ruthfull woe.

And in the ninth Aegloge, Diggon Dauy vseth the same kinde of argument to the same purpose.

Their ill hauiour garres men missay,
Both of their doctrine and of their fay.

And yet here the cause argueth the effect, although there bée no syllogisticall probation intended, for that the proposition of it selfe séemed to Diggon true inough. And in our lawe, In euery count, barre, replication, reioynder, &c. Argumentes of asseueration and exposition bée asmuch vsed as those of proofe and conclusion. Now for the other parte, no man doubteth but that an argument of the cause may bée very well vsed for confirmation, wherof examples are euery where apparant. Let no man therefore thinke there is no Logike, where there is no syllogisticall conclusion, for euery argument serueth not euery where onely for confirmation.

[Inhærent:] I vse this word till I méete with a better. I meane not so Inhærent, as though it should alwayes agrée with the thing argued, for many times it is flatly repugnant therevnto, but so conioyned, as that the thing argued in maner offereth the argument to the Inuention of the Logician, and this is true in disagréeable argumentes: otherwise it is in testimonies, which bée as it were borrowed from other matters, and brought to the Logician to bée framed accordingly.

Ramus diuideth an argument into artificiall and inartificiall, wherupon Piscator toke occasion of reprehension. For I sée no reason, sayth hée, why testimonies shoulde bée called inartificiall argumentes, séeing that there is as good Arte shewed in applying them, as in finding other argumentes: and if in Art there ought to bée nothing without Art, either Inuention wanteth Art, or testimonies are not inartificiall, they answere him thus. They bée not called Inartificiall, for

that they want Art, but because they argue not of thẽselues, but by the force of some artificiall: Which answere doth not fully satisfie mée: For the testimonie of God argueth moste absolutely of it selfe, neither can wée well say, that his testimonie were not to bée beléeued, vnlesse hée were verus, bonus, iustus &c. sith wée cannot distinguishe these so from his diuine essence, but that whatsoeuer is in God, is God: and therefore it is an vnfallible argument, God spake it, therefore it is so, ipse dixit, is here sufficient, neyther néede wée séeke for any artificiall argument to confirme it, as wée doe in the testimonies of men.

I holde on the same course which Ramus doth in deuiding still by certaine steps and degrées, till I come at last to the lowest. For it were against Platoes precept and all Arte, to iumpe abruptly from the highest and most generall, to the lowest and most speciall, without passing by the subalternal.

[First:] First may bée conceiued of it selfe, without respect had to any other, as not depending on those that follow. So the cause may be knowne without any mention of a definition, but the definition can neuer bée conceiued without notice of the cause, as being made thereof: therefore the cause is first and originall, the definition secondary.

[Fully agreeable:] Seribonio & Piscatori non placet ista distinctio: nam si Logicè considerentur, æqualis & eadem est consensio: nam subiecta & adiuncta æquè non possunt alterum esse absq; altero, atq; causa & effectũ: sin physicè, tùm accidentalis illa consensio est æq; in his & illis: nam faber potest non facere, quomodò puer potest non esse tinctus literis. Et nec omnis causa essentialiter conuenit cum effecto, nec omne subiectum accidentaliter cum suo adiuncto. hæc illi. Quia tamen diuersi sunt gradus dissentaneorum, ideò & consentaneorum videntur esse eodem modo. Itaq; hic nihil mutaui. hæreo.

These generall heades of argumentes haue béene diuersly tearmed of diuers Philosophers, as appeareth by Diogenes Laertius, and Aristotle. For sometimes they are called Categoremes, and the handling or discoursing of the same, Categories, both which are Grécke wordes of like signification, borrowed

borrowed from the place of iudgement, and applyed to philosophicall conceipts. κατηγορεῖσθαι signifieth to say, or affirme one thing of an other, as in accusations it is vsually seene, and in arguments easily perceaued: where one thing added to an other, is affirmed of the same, or else denied. Otherwhiles the preceptes of them bee called τόποι, whereupon, Aristoties bookes where these bee handled, are intituled τοπίκα. τόπος is a place, and therefore Tully called them in Latine, locos, sedes, fontes, places, seates, springes or fountaynes of argumentes. Sometimes they haue more apt and easie titles, as when they bee called Principles, Elementes, Reasons, Prowes, Argumentes, Termini and Media. Of all which, I vse for the most part, this word Argument, and sometimes Reason, and Prowe, as most vsuall and significant, the rest beeing rather straunge and metaphoricall.

The third Chapter.

Of the efficient and materiall cause.

A Cause is that by whose power and force a thing is caused: therefore this first place of Inuention is the fountayne of all knowledge, and that thing onely is knowne, whose cause is vnderstode. A cause is eyther before the thing caused, or els, in and with it. The cause before the thing caused, is eyther the efficient or the material. The efficient is a cause from the whiche a thing is: which although it cannot bee artificially deuided, yet it may bee for order, thus distinguished. First the efficient worketh eyther of it selfe and by his owne proper force, or els accidentally and by some external power. By it selfe, either naturally as the windes blowe, the fire heateth, or with aduice and voluntary deliberation as man in his seueral actions. Accidentally, eyther by necessitie, as when the efficient is by some violent compulsion constrayned to do this or that, or by chaunce and hazard, when any thing happeneth contrary to the purpose and intent of the worker,

as if a man digging for stones shoulde finde treasure, which comming to passe by some secret cause, is by vs ascribed to fortune: Secondly the cause efficient either worketh alone, which of it selfe without any help of others bringeth to passe his effect, as fire heateth, these bee ἄϊτια ἐνεργοῦντα καθάυτα, or with others, which is holpē by others, these be called συναίτια or ἀποδεδηγούντα, this is either principall, which in working ruleth the instrumental, as the Carpenter the axe, or instrumental which is vsed of the principal: and is eyther idle, and of it selfe hath no action, but is onely moued of the principal, as the Sawe of the Sawyer, or helping, as beeing moued of the principall, and yet moouing it selfe also, as all such instrumentes which haue life, as the Oxe ploweth partly by his owne motion, partly moued by the plowman. Agayne it is such as the efficient cannot worke without it, as the writer without a pen, or contrarily.

Lastly, the cause efficient either maketh or destroyeth: that which maketh causeth a thing to bee γεννετικὴ, and doth either procreate or bring forth that which was not before, as God the worlde, king Lud the Citie of London, or preserue and keepe that in beeing which before was procreated, as God the world, magistrates the cities. The destroying is that which causeth a thing not to bee that was, and doth eyther vtterly abolish and make that to haue no beeing whiche before was, as the floud, or in part destroy and deface, as sickenesse the body.

In June Hobbinoll reciteth a number of particular efficients of delight and pleasure, describing thereby the place where hee was, thus:

Loe *Collyn* heere the place whose pleasant syte
From other shades hath weand my wandring minde,
Tell mee what wants mee here to woorke delyte?
The simple ayre, the gentle warbling winde,
So calme, so coole, as no where els I finde.
The grassy ground with dainty daysies dight,
The bramble bush, where birds of euery kinde
To the waters fall their tunes attemper right.

Collyn in the first Egloge maketh loue the efficient of his weale and woe.

A thousand sithes I curse that carefull howre,
Wherein I lou'de the neighbour towne to see,
And eke ten thousand siths I blesse the stowre
Wherein I saw so faire a sight as shee.
Yet all for naught, such sight hath bred my bayne,
Ah God, that loue should breede both ioy and payne.

In April Hobbinoll declareth the procreant causes of Elissa.

Pan may bee proud that euer he begot
such a bellibone,
And *Syrinx* reioyce that euer was her lot
to haue such an one.

And in July, Thomalyn describing that tyme of the yéere, poetically, in the ende bringeth in the doggestare as causing death.

Such examples as want in the Kalender, shall be supplied out of our law.

And now the sunne hath reared vp
his fierie footed teame
Making his way betweene the cup
and golden Diademe.
The rampant Lyon hunts hee fast
with dogge of noysome breath:
Whose balefull barking bringes in haste
pynes, plagues, and dreary death.

In May, Piers vseth conseruant causes.

But tract of time, and long prosperitie,
That nourse of vice, this of insolencie:
Lulled the sheepheards in such securitie, &c.

Maister Plowden, Folio, 262: a: Et quant a ceo, ils disoyent, que le forfeture icy auera relation al temps del original offence commence, que enforce le mort, et ceo est le metter luy en ewe, et ceo fuit fait en sa vie, et ceo act fuit felony, et l'enditement dit, et doyt dire, que il mist luy en le eawe feloniousement. Car ceo que cause mort, doyt estre dit feloniousement fayt: et pur ceo si vn percuss vn auter, issintq; apres, il de ceo morust, l'enditement doyt dire, que il luy feloniousement percusse, issintque felony est attribute al acte, lequel act est fait per viue home, et en sa vie, come Browne dit. Car il

dit; sir Iames Hales fuit mort, et coment aueigne il al mort? Poet est redit per surrounder, et que surrounde luy? poet estre responde, sir Iames Hales. Et quant fist il ceo? Poet estre responde, en son vie. Issint que sir Iames Hales esteant en vie causa sir Iames Hales d'estre mort, et l'act del viue home fist le mort del mort home. Heere sir Iames Hales did of himselfe voluntarily drowne himselfe.

Issint. Fol. 366. Si estrange al fine, que est de bon memory, deueigne de non sane memorie, ou est imprison le tierce an apres les proclamations fait, et issint continue tanque les sinque ans soyent expire, et pius il vyent en son memorie, ou est hors del prison, il ne serra conclude: car laches ne puit estre assigne en luy que fault memory, ou libertie en son prosecution, et pur ceo ne fueront comprehende en le entent. Mes si en ceo case lestraunge al fine, en le tierce an, vst ale ouster le mere, ou vst prise baron, et issint vst continue tanque les sinque ans vssent estre passe, la ils serront lye. Car le aler oustre le mere, ou prender del baron fueront acts voluntarie: Mes insanitie del memory, et imprisonment sont encounter le volunt del partie, et issint ils disoyent, que reasonable sence doyt estre adde al letter.

Fol. 9.b. 13.b. 18.b. 19. a.b. Les parols del ley de nature, del ley de ceo realme et dauter realms, et del ley de dieu auri voile yelder et doner lieu a ascun acts et choses faits encoũter les parols de mesme le leys et ceo est lou les parols del ley sont infringe pur auoyder greinder inconueniences, ou pur necessite, ou per compulsion, ou per inuoluntary ignorance. Pur auoyder greinder inconuẽiences, come le bater del person de ascun home en ascun cases, vncore le batre et naufre de ascun home per auter, est cybien encounter le ley de nature, come encounter le ley del terre.

Mes vncore en 22. lib. ass. lou home fuit en arrage et non sane memorie, et fist grand male, et le home, et ses parents auri luy prisseront, et luy lieront, et bateront oue vierges, et est la tenus, que ils puissoyent ceo iustifier en auoydance del grand male que il puissoit faire, esteant de non sane memorie. Et vncore le ley de nature, et le ley del realme prohibite generalment ascun de bater auter:

mes

mes ceſt eſpeciall caſe pur auoyder de greinder miſchiefe, ad vn exemption et ſpeciall priuilege. Et nous voiromus auri (come iay dit) que neceſſitie en toutes leys ſerra bone excuſe, et que touts leys done lieu al neceſſitie. Car il eſt conmon prouerb, que Neceſſitas non habet legem: et pur ceo, In præcipe quod reddat, le tenant excuſera ſa default per cretein de eaw, et vncore cheſcun default eſt abhorre en noſtre ley, pur ceo que il eſt vn contempt del court: mes pur ceo que ſans peril de mort, il ne puit veigner, le neceſſitie del chaunce en tiel caſe, entant que nul default eſt en luy, luy excuſera.

Iſſint enfriender del priſõ eſt felony en le priſoner meſme per leſtatute De frangentibus priſonam, vncore ſi le priſon ſoit ignie, et ils que ſont eins, enfreindre le priſon pur le ſaluation de lour vies, ceo ſerra excuſe per le ley del reaſon: et vncore les parols de leſtatute ſont encounter ceo. Iſſint in 14: H.7. les iurors que fueront iures ſur liſſue, pur fear d'un grand tempeſt departont dillonques et ſeuerõt eux meſmes, et fuit la tenus que ils ne ſerra amercies, et que lour verdit apres fuit bone, et que ils ne feſoyent malement, et ceo fuit iſſint tenus pur le neceſſitie del chaunce: mes auterment ils ſerra grieuouſement punye. Et iſſint pur ſaluation de ma vie, ieo puis tuer auter que aſſault moy. Car coment que effuſion del ſange, et tuer des homes eſt prohibite per le comen ley, vncore cheſcun home en ſon defence, ou come champion en tryall en briefe de droyt, ou tiels ſemblables poyent tuer autres: et ceo eſt pur le neceſſitie del ſaluation de ſon vie en ſon defence, et en l'auter caſe pur le neceſſitie del triall.

Iſſint per le commen Cuſtome del realme, les hoſtelers ſerra charges pur les biens de lour geſtes perdus, ou embeſeles de lour meaſons: vncore ſi lour meaſons ſoyent enfreints per les enemyes de roy, et les biens dillonques priſes, ils ne ſerra charge pur eux. Car per reaſon, ceo ne poet eſtre reſiſt: et pur ceſt cauſe ceo violence infringera le violence del cuſtome. Et auri le ley de Dieu done lieu al neceſſitie. Iſſint que les parols del ley de dieu poient eſte infringe per neceſſitie ſans offence al dieu: et pur ceo en le viel ley, per le ley de dieu il fuit prohibite que nul comederoit le ſacre pane ſ. panem propoſitionis: vncore il appiert

piert que Dauid pur necessitie de famyne comede le dit pane, et il ne infringe le ley, coment que il infringe les parols del ley, come Christ mesme declare en le gospell, pur ceo que il ceo fist pur necessitie.

Issint les Apostles del Christ per necessitie del famyne auolsont les spices del frument dauters persons, et les comederent, et coment que ils infringe lerpresse parols del sacre scripture, que prohibite a prender les biens del auters sans le volunt del owners, vncore ils ne offenderont per ceo, come il apiert per le gospell. Issint que per ceux cases nous veyomous que le ley des homes et de dieu yelde et done lieu al necessitie.

Et compulsion auxi est bon excuse en nostre ley, come si home fist obligation per dures, il auoydera ceo. Issint si le brache de ascun est traie per compulsion, et le weapon en son mayne tue vn auter, ceo ne serra felony: et issint en touts auters cases lou home fait chose esteant a ceo coact et compell, il ne serra pur ceo damnifie. Et auxi si home infringe les parols del ley per inuoluntary ignorance, ceo nest enfreinder del ley. Come si vn infant de tender age tue vn home, ceo ne serra fellony en luy, pur ceo que il nauoit discretion, ne intelligence, et pur ceo le ley impute ceo a son ignorance, lequel est a luy a ceo age per nature, et issint nul default en luy, et pur ceo il est dit Inuoluntary ignorance. Car il ne puit esse sapient ne sage, coment que il voil, mes est ignorant per compulsion, et pur ceo il serra excuse, et tiel act est proprement dit destre fait ex Ignorantia. s. lou inuoluntary ignorance est aiudge le cause del act. Issint si vne home de non sane memorie tue vn auter, coment que il ad enfreint les parols del ley, vncore il nad enfreint le ley, pur ceo que il nauoit ascum memory, ne intelligence, mes mere ignorance, lequel vient a luy per le main de dieu; et pur ceo est dit inuoluntary ignorance; a quel le ley impute le act deste fait, en tant que nul default est en luy, et pur ceo il serra excuse, entant que il est ignorant per compulsion, et tiel act est dit et terme deste fait ex ignorantia, s. eoque inuoluntary ignorance est le cause. Et in Deuter. in principio cap. 9: Dieu prouide especiall remedy, que cesty que fist chose per tiel ignorance

nozance ne serra puny pur ceo: car la il est ozdeigne, que si vn labozer est al labozone vn hatchet, et le test del hatchet eschue, et tue vn que est south luy, que tiel labozer ne serra mise al mozt, mes vn especiall ville fuit ozdeigne pur sanctuary pur luy, pur ceo que il ceo fist per inuoluntary ignozance. Mes lou home enfreint les parols del ley per ignozance voluntary, la il ne serra excuse: come si vn home que est yure, s. drunke, tue vn auter, ceo serra felony, et il serra pende pur ceo, et vncoze il fist ceo per ignozance. Car quant il fuit yure, il nauoit intelligence ne memozy: mes entant que ceo ignorãce vient a luy per son act et folly demesne, et il puit resister cest ignozance, il ne serra pziuilege pur ceo, et Aristotle dit, que tiel home est digne de dowble punishment, pur ceo que il ad dowblement offende, s. en esteant yure, en male example de auters, et en fealsance del act. Et ceo act est dit et terme deste fait ignozanter, s. ou il est cause de son ignozance demesne: et issint le diuersitie perenter chose fait ex ignorantia, & ignoranter. Et issint come iay dit, lou les parols del ascun ley sont infringe pur auoyder greinder inconuenience, ou per necessitie, ou per compulsion, ou per inuoluntary ignozance, que en touts ces cases le ley nest offende. Et adonques veyoromus et examineromus nostre case. Et en nostre case le Moabe fuit eiect, et le incerteintie fait pur auoyder le greinder mischæfe. Car le vie de chescun home est plus pzetious que ascun biens sont, et le perder del vie del home est plus grand mischyefe que le perder del biens. Et issint en auoydance del ceo plus grand mischæfe, le eiectement, et le incerteintie fueront faits. Auri ceo fuit per necessitie, et per le plus grand necessitie que puissoit este fait, s. per necessitie en auoydance del mozt. Et le necessitie icy fuit cy grand que en les auters cases auãt dits, s. le necessity en le case de creteine de ewe, et del famine: car est pur saluation de vie en l'un case et l'auter. Et auri l'act poet estre dit d'estre fait per compulsion: Car quant vn chose veigne a tiel point, que sil ne fait tiel act, que adonques il pzesentment mozera, et en auoydance del pzesent mozt il ceo fait, tiel act poet bien este dit d'estre fait per compulsion, et per le plus grand compulsion que poet estre. Car il nad plus grand compulsion que

compulsion del mort, s. que il morera, sil ne fist tiel chose, et issint icy l'eiectement del woade, et le incerteintie del remenant vient per compulsion. Et auxi il ne poet este deny mes que le ignorance icy del incerteintie fuit inuoluntary, entant que l'eiectement del woad que fuit cause del ignorance, fuit per compulsion, que est inuoluntary. Et entant que le ignorance del incerteintie est deste ascribe et impute tantsolement al necessitie et compulsion, et pur auoyder greinder myschyefe, queux choses per prouydence ne puissent este preuent, ne per circumspection eschue, ne per poiar resist, adonques ieo dye, que nul default est in Fagalla &c.

Principal, instrumental. Fol. 98. Car ils disoyent, que quant pluiors veignont a faire vn act, et lun solement ceo fait, et les auters sont present, abbettant luy, ou prist de luy aider en le fait; ils sont principalles a tous entents cy fortement come cesty que fait le act. Car le presence de les auters est terror a cesty que est assault, et occasion que il ne osast luy mesme defender. Car si vn viest son enemy, et 20. de ses seruantes veignant a luy assaulter, et ils touts trayeront lour espees, et luy enuyron, et vn solement luy percuss, issint que il de ceo morust, ore les auters serrõt per bone reason aiudge cy grande offendours que cestuy que luy percust.

Car si les auters, nussent este present, il peraduenture voils auer luy defende, et issint eschape. Mes le number de les auters present et preste a luy percusser auxi, serra aiudge grande terror a luy, et abatement de sa courage, et occasion a faire luy despeirer a se defender, et est occasion de sa mort. Issint que lour presence est la cause de son terror, et le terror est cause que il receiue les plagues, et les plagues sont cause de sa mort, et donques entant que ambideux les choses, s. les plagues, et le presence les auters que ne donont pas les plages, sont aiudges la cause de sa mort, il ensuit que touts eux, s. les ferriors, et les auters present sont en semblable degree, et chescun est participant del fait del auter. Et le fait, quant a cesty que est mort, et quant al punishment de ceo, (coment, que il consist de deux parties) vncore en le ley il est sans diuision. et nyent contristeant que ne soit que vn plage, done per vn solement, vncore il serra aiudge en le ley,

le

le plage de cheſcun, ſ. done per ceſty que le done pur luy meſme, et done pur les auters per luy come lour miniſter et inſtrument. et eſt cy fortement le fait de les auters, ſicome ils touts ount tenus ioyntment oue lour maynes le baſton, ou le auter inſtrument, oue que le plage fuit done, et vſſent touts enſemblement percuſſe l'occiſe.

Fol. 497. et 498. Touts les Juſtices agreont en vn, que le ordinary, le Patron, et le roy, doyent agrér a faire vn appropriation, et ſont actores huius fabulæ (come le ſeigniour Dyer le terme) ceſtaſſauoir, le ordinary inferior, ou ſupreme. Car il eſt le principal agent en ceo, eo que il ad le ſpirituel iuriſdiction, et lact del appropriation eſt choſe ſpirituel. Et lordinary dit, Appropriamus, conſolidamus, & vnimus, come principal actor en le cauſe, come Manwood Iuſtice dit: eoque le choſe que concerne le cure de eſgliſe, eſt choſe que concerne les alms des parochians, de queux, deins ſa dioceſſe, le eueſque ad charge. Et pur ceo en le appropriation le ley attribute a luy principall part. Et ceo que le ordinary del dioceſſe puit faire, ceo le pape que vendicat a luy ſupreme iuriſdiction oultre touts ordinaries, vſaſt de faire deins le realme, come ſupreme ordinary, et fuiſt long temps ſuffer de ceo faire, et iſſint il vſaſt de faire viſitations, corrections, diſpenſations, et tolerations, deins cheſcune dioceſſe de ceo realme, et tolle de les eueſques deins ceo realme tout come luy pleſt: et enſuant ceſt vſage il vſaſt de faire appropriationes ſans l'eueſque, quel fuit priſe d'eſtre bone et l'eueſque, que ne fuit accoumpt forques come inferior ordinary, ne vnques counterdiſt ceo, mes ceo fuiſt vſe et accept come bone. et tiel autoritie et iuriſdiction que le pape vſaſt deins ceo realme fuit agniſe per le parlyament in Anno. 25. H. 8. et auters ſtatutes, deſte en le dit roy Henry le Huyte: et de luy deſcendiſt al ſucceſſors: donques le appropriation fait per le roy ſolement ſans l'eueſque, eſt ſi bone, come ſi l'eueſque vſt le fait, ou ſicome il fuiſt priſe en auncient tẽps quant le pape le fiſt. Mes coment que le ordinary inferior, ou ſuperior eſt celuy que doit faire le appropriation vncore il ne poet ceo faire ſans le bon volunt del patron. Carle Patron ad en le aduouſon, temporal inheritance ceſtaſſauoir,

fœsimple, le quel le ordinary, ne en auncient temps le pape, ne puit toller de patron, ne alterer sans le bone volunt del patron. Mes en appropriations le patron est vn part, car il doit accepter ceo: et le ordinary est le agent, et il est le patient. Et son assent en submission de luy al volunt le ordinary, et en acceptance del son order, et en execution del ceo que est ordeigne, est declaration de son entent: et tout serra entende deste fait a son request, car le benefite est soen: et issint le ordinary, et le patron sont duo actores huius fabulæ. Et oultre eux, il y ad vn tierce, que ad parte a faire en cest action, et ceo est le roy, come roy: car il puit este lede per cest mariage. Car le auoulson est tenus de luy mediatment, ou immediatment, &c.

Fol. 79. a. Car troys choses font ceo vn act (il entende vn act de Parlement) s. l'assent de les seigniors, de les comons, et de le roy: et l'un, ou deux sans le tierce ne fait ceo vn act. Car comentq; les seigniors et comons agree al chose, vncore n'est act tanq; le roy ad assent auri. Cause en compaigne.

Cause procreant. Fol. 214. Adonques icy en le principal case, le roy Henry le quart fuit fits et heyre a Iohn de Gaunt, que fuit vn des fits le roy Edward le tierce, et fuit auri fits et heyre al Blaunch feme del dit Iohn de Gaunt, que fuit file et heyre Henry Duke de Lancaster. Issintq; le Duchy de Lancaster vient al dit Henry le quart per discēt del part sa mere.

Folio 242. b. Car del heure que tout iustice, tranquilitie, et repose est deryue del roy come del fountaine de ceo, le ley en tous ses besoignes et choses luy fauour come le chiefe test del ceo.

Cause conseruant. Fol. 315. b. le roy est le test del bien publique, et les subiects ses membres: et l'office le roy que le ley a luy appoynt, est, de preseruer ses subiects.

The matter is the cause of the which a thing is made.

So in August Willy sheweth what matter his cup was made of, thus:

Then lo, *Perigot*, the pledge which I plight,
A mazer ywrought of the maple warre.

In December Collyn in his complaint,

Where I was woont to seeke the honny Bee

Woorking

Woorking her formall roomes in waxen frame,
The grisly toadestoole growne there might I see,
And loathed paddocks lording on the same. Againe,
And learn'de of lighter timber coats to frame,
Such as might saue my sheep & me fro shame. Againe,
To make fine cages for the Nightingale,
And baskets of bulrushe was my woont.

Maister Plowden. Fol. 15. b. Les vines del panne sont le mater del toge.

Annotations.

ARistotle sometimes calleth the efficient, the beginning of motion and rest, as in the first of his Metaphysikes, and second of his Physikes. And otherwhiles hée vseth this very name, Efficient, as in his Topikes and Demonstrations.

The auncient Philosophers made great discourses concerning this cause, but some very fabulous, sayth Aristotle 3. Metap. As Hesiodus and Parmenides made Loue the maker of all things; some obscure and ambiguous, as Hermotimus and Anaxagoras sayde that a certaine diuyne spirite was the author of all; so Empedocles giues all to Concord & Discord, and diuers others to other diuers things. Wherfore Aristotle compareth them to yong fresh souldiers and vnexperienced fellowes, that many times hit home, and lay on loade, but without eyther art or order.

αἴτια, or αἴτιον in Greéke is a cause in English. It is somtimes taken generally for any reason or argument by common custome and vse of spéech: but hére it hath a more speciall and proper signification, and conteyneth onely these foure kinds of causes following. αἴτιον and αἴτιατον, bée very significant words to expresse the cause and that which is made of the cause: The Latinistes haue none so good, vnlesse you take that dunsicall derivation, Causa, Causatum, which wée imitate in English to very good purpose, thus, the cause, and the thing caused: Where, as the word, Cause, comprehendeth efficient, materiall, formall, and finall cause, so, the thing caused, aunswering αἰτιατον in Greéke, and Causatum in Latine, conteyneth the seuerall effectes of euery particuler

cause, as proportionably wee may say, the ende and the thing whose end it is: the forme and the thing formed, the maker and the thing made, the matter and the thing materiate. For otherwise, although in Latine, Effectum do stand for all foure, yet properly it onely betokeneth that which is caused by the efficient. For thus wee may distinguishe the severall vertues of the foure causes, although I knowe they all concurre togither in causing, so that the constitution of the thing caused is not fet from this or that alone, but from all foure ioyntly.

Fœlix qui potuit rerum cognoscere causas, saith Virgill. For although by effects and other argumeuts wee may haue a probable gesse and make sensible coniectures at thinges: yet no true science or knowledge is had but from the causes: By the effectes and euentes wee see τὸ ὅτι, that thinges bee so: but by the causes wee knowe τὸ διότι, why they be so; and that is onely worthy the name of knowledge.

These diuers sortes and distinctions of efficients are greatly to bee considered in dayly affaires, as containing in them the reason of the well or ill doing of any thing: of all punishments, rewards, excuse, compassion. &c.

Omnis procreatio & conseruatio fit natura, consilio, per se, vel per accidens: itaq; illa primo, hæc postremo in loco collocaui.

[Naturally:] So all naturall thinges bee made, marde, augmented, diminished, altered, and remoued from place to place by this operation of nature.

I sayd before that the efficient was rather distinguished then artificially deuided. For in trueth the preseruing cause is the efficient rather of the preseruation it selfe, than of the thing preserued. And the instrumentall cause, as it is an instrument, is no efficient at all, but rather a helping member or part of the efficient, sith it hath no power in it selfe to cause the thing caused. Causa sine qua non is of some referred to helping causes. Occasio est agendi tempestiuitas siue opportunitas casu oblata, quod postremum ex nominis etymologia intelligitur, reliquum ex appellationibus græcis, καιρὸς, εὐκαιρία, ἀφορμη, quorum nominum extremum,

notat

notat tempus vnde agens initium agendi facit, quod græcè expressius sonat, τὸν χρονον ἀφ' ὃ ὁρμᾷ ὁ πραξόμενος. videtur occasio esse causa per accidens, sed diuersa ab illis duabus a *Ramo* positis.

Aristotle in the second of his Physikes distinguisheth betwéene Fortune and Chaunce, as making Fortune properly incident to those efficients onely which worke with aduise and deliberation, yet then vse it not, and this is called Imprudentia, when wé do a thing vnawares. But Chaunce hé will haue that to bé which is found in things void of such deliberation. So that if a man should call the stones that couer some honourable personage, fortunate, for that they bé somewhat honored, this were but an vnproper kind of speaking by Aristotles rule.

A man goeth towards Westminster to talke with his coũseller, and misseth of him, hére his going was in vaine: but in going hé findeth a ringe: His going to Westminster was the cause of the finding of the ringe, but yet such a cause as wé call Fortune, or Haphazard. So Ouid excuseth himselfe for séeing somewhat more than hé should, before he would.

Cur aliquid vidi? cur noxia lumina feci?
Cur imprudenti cognita culpa mihi est?
Inscius *Actæon* vidit sine veste *Dianam*,
Præda fuit canibus non minus ille suis.
Scilicet in superis etiam fortuna luenda est,
nec veniam læso numine casus habet.

In like maner Tully reporteth in his thirde booke de natura deorum, what good fortune befell Iason Phæreus, who hauing an impostume, as hé thought, incurable, went to fight with purpose to dye, but with a wound his impostume was opened, a thing which neyther himselfe nor his phisitians euer imagined: Hére then was fortune on eyther side, in Iason that was wounded, and in him that gaue him the wound: good in the first, bad in the second. For the enemies weapon was by fortune a cause of Iasons vnexpected health, whereas death was desired of the one, and intended by the other, for he that gaue the stroake, thought rather to make a new wound than cure an olde disease. This is fortune with

Aristotle. Nowe on the other side, if a three-foted stole should fall from aloft, and yet in falling stand on his fete, this with him is chaunce, for the stole fell for no such ende, and it is a thing altogether senceleſſe. Epicurus said that the world was made by the casual concourse and mixture of litle round indiuisible bodies, like moates in the sunne, whose ridiculous blasphemy Tully mocketh not without deserued cause, 2. de nat. deorum: for so, if a man shoulde by chaunce cast abroad an hundred thousand or more of characters or Printers stampes, hee might as well reade on the ground all saint Austins workes or Cowpers dictionary by the casuall scattering of A. B. C. These bee examples of chaunce with Aristotle, not of fortune. But it is folly to stand vpon this nice and friuolous distinction of Chaunce and Fortune, sith in common speech they be taken all as one, and so they bee heere to bee vnderstoode.

In this kinde of cause, ignorance and vnwitting simplicitie haue place as I sayd before, whereof come excuses and supplications, when a man pleadeth ignorance, and therefore hopeth to finde pardon, as Tully for Ligarius, Ignosce pater, errauit, lapsus est, non putauit, si vnquam posthac. And againe, Erraui, temerè feci, ad clementiam tuam confugio, delicti veniam peto, vt ignoscas oro. But indeede, this name of Fortune, Chaunce, Hap, or Hazard, was onely inuented by such as knewe not the first cause, Gods prouidence: And therefore when any thing fell out contrary to theyr expectation, whereof they neyther vnderstoode the cause, nor could yeeld any reason, they said it came by chaunce, fortune and hazarde. Wherevpon Fortune was made a goddesse of good luck: and many christians vse these prophane tearmes, God send mee good lucke, and good fortune. Whose idle prayers bee noted by an Ethnike Poet.

Nullum numen abest, si sit prudentia; sed te
Nos facimus, fortuna, deam, cæloq; locamus.

Aristotle calleth Fortune, παράλογον, ἄορισον, ἄβεβαιον, ἀνθρωπίνῳ λογισμῷ ἄδηλον, improuidum, incertum, dubium, humano iudicio ambiguum, and yet ὡς θεῖόν τι καὶ δαιμονιώτερον, vt diuinum quiddam & beatum.

Canons

Canons incident to causes generally.

God onely is the first and principall cause of all thinges. All other causes whatsoeuer are secondary, and subiect to his eternall direction.

Nothing is without a cause.

If all the causes concurre, the effect will followe.

To whatsoeuer thing you ascribe the cause, or deny the cause to ỹ same you attribute or deny ỹ effect or thing caused.

Such as the cause is, such for the moste part is the thing caused: this holdeth not in destroying causes.

Particuler Canons of the efficient.

When many efficient causes ioine and concurre together in any action (as the principall cause with other helpers and instrumentes) there they all ioyntly together bee onely the full and perfect efficient cause of that effect.

Cause naturall, voluntary, accidentall, violent.

God hath distributed to euery creature some naturall proprieties, vertues and operations.

If the naturall vertue, and propertie of any thing bee affirmed, the naturall effect will follow, vnlesse that naturall facultie bee otherwise let or hindered, and if the effect bee, the cause must also haue gone before.

If will, and aduise, or deliberation bee, then the effect may bee.

Such as the naturall disposition and will is, suche is the effect iudged to bee.

If the cause be in hazard, that is, if the cause bee to vs vncertaine and vnknowne, then may the effect fall out vncertainely and by hazard, or when wee loke not for it.

Alone and with others.

If the sole cause worke continually, the thing caused is alwayes, if not, then otherwise: if the efficient do necessarily require the helpe of others in working, then without them nothing can bee done: if not, then otherwise: if it worke by instrumentes, then are those instrumentes required. If the efficient worke alone, then it deserueth the more, either prayse or condemnation, if with others, then the lesse, so Nisus 9. Aeneid. accuseth himselfe, and excuseth

Euryalus. Me, me, adsum qui feci, in me conuertite ferrum,
ô Rutuli, mea fraus omnis, nihil iste, nec ausus,
Nec potuit.

Procreant, conseruant.

No efficient cause, except God, can make any worke without matter. Hinc illud,

gigni,
E nihilo nihil; in nihilum nil posse reuerti. And if the matter bée, the worke may bée made.

If the procreant and conseruant cause bée, the thing may bée procreated and conserued. If the vndoing and destroiyng cause bée, then must the thing decay.

If the cause efficient bée good, the effect will bée good: and bad, if bad.

If the destroying cause bée good, ỹ thing destroyd was bad: If the thing destroyed bée bad, the cause destroying must bée good, ỹ is to say, hath don some good, hath brought some profit.

The efficient may bée expressed by variety both of Grammaticall cases and Rhetoricall figures: as in procreant causes, God is the father and fountayne and well of all goodnes. The beginning of euery good thing is in, of, and from God.

From procreant causes the Poets do oftentimes fetch their epithites & circumloqutions, as, Sole satus *Phaeton, &c.* Phaeton borne of the sunne.

If you put downe, or take away, that is, if you affirme or deny the cause efficient, procreant and conseruant, in tyme fit and conuenient to worke, and bëing not idle, then the effect must bée put downe, or taken away: but diuersly, according to the diuersitie of the causes themselues. For,

If such a cause bée, as that it worketh of his owne proper force, plainly and certainly, no other thing helping it, then must the effect follow certeinly.

Now let vs sée a little the vse of these Canons, in comparison of the plaine definitions and explications of proprieties put downe by Ramus. Let this serue for an example.

He that is idle, is wanton:
But *Paris* is idle,
Therefore *Paris* is wanton.

In

In the proposition, which is the first axiome of the three, Idlenesse, as a procreant cause, doth argue Wantonnesse, as his effect. In the second axiome which maketh the assumption, the same Wantonnesse, is an adiunct of Paris; that is, a qualitie adioyned, or incident to the nature of Paris. Nowe according to the common Logicians, in this sorte must you iudge by disposition.

Paris is idle,
Therefore he is wanton,

For the cause beeing put downe, the effect will followe. But otherwise; if you beleeue Ramus, thus:

The proposition, which was this; He that is idle is wanton, is a doubtfull and contingent axiome, and yet, for the most part, most true, by reason of the affection of such a cause to such an effect. The assumption was this, But Paris is idle, which is also a contingent axiome, and must bee confirmed by the maners and behauiours of Paris. The conclusion it selfe doth follow necessarily, by force of the forme and constitution of the syllogisme: but yet, of it selfe, it is but a contingent axiome, although the deduction of it from the premises, bee, as I sayd, necessary, by reason of the lawfull framing of the syllogisme. If therefore the proposition bee denyed, I aunswere, that it is a contingent axiome, for the most part true, and therefore you cannot iudge it altogether false. And this I confirme by the definition of the efficient cause already put downe, thus; The efficient is a cause from which a thing is, which cause if it bee, the thing caused either is, or may bee. This nowe is a new and prosyllogisticall argument, fet from the very naturall definition of the argument it selfe, that is of the cause efficient: nay rather this is that common maxime vsed of others, if the efficient cause bee (that is, in due time, and not hindered) the effect will follow. But heere, the variety of efficient causes is diligently to be marked, as some be alone, some with others, some accidentally, some of their owne force; as before I haue shewed. So then, by this we perceiue, that the Canon or Maxima, doth nothing concerne the consequence, but onely the confirmation of the

proposition and thing it selfe. Thus much for the proposition.

Now if any man deny the assumption, it must, as I sayde before, bee proued by the life and conuersation of Paris himselfe. For in euery syllogisme, the premisses, as they terme them, that is, the proposition and the assumption, must bee proued and confirmed, eyther by axiomaticall iudgement in Logike proceeding from the seuerall affection of argumentes to the things which they argue, or els by other arts and daily affayres incident to mans life. And commonly the propositions are proued to bee eyther contingent or necessary axioms, by Logicall definitions of argumentes, and certayne rules or canons, which are, as it hath beene tolde, brought in for new and prosyllogisticall arguments for the confirmatiõ of the said proposition, and not as proofes of the conseqution. And if you thus apply rules, canons, and maximaes, whether proper to this Art, or those common receiued ones, you shall not doo amisse.

Lastly, concerning the conclusion of this syllogisme, if any man doo so much want good maners, as to deny it, you may iustly say, there is no reason why it should bee denied, vnlesse the constitution of the whole syllogisme bee not lawfull and artificiall.

I will heere insert a few examples gathered out of our Law bookes, for the better vnderstanding of some of these canons, & those distinctions of efficient causes put down before.

Cause principall and instrumentall.

Hitherto may bee referred, what is sayde of principall and accessaries. Stamford, lib. 1, cap. 44. Nota que in grand treason, yl y ad nul accessories, eins touts sont principals. Vt patet, An. 3. H. 7. fol. 10. Illint que quecunque offence fait home accessarie en felony, mesme l'offence in grand treason fait luy principall. Mes en petit treason, ou felony, ou auters tiels crimes, accessaries poient estre.

Accessaries sont deuant l'offence perpetrate, in procuring or commaunding auter de faire vn felony, mes n ient esteant present a le fait: illint, apres l' offence perpetrate sont ceux qui receuont vn felon attaint, bien conusants del fait que il

ad

ad fait, ou luy fauorsont, ou aydont, &c. In attainder sur apparance et default, le principall doit estre attaint deuant l'accessory: et l'acquitel del principal est auri acquitel del accessory.

Accidentall.

De Homicide per misaduenture, vide Fitz. tit. co. 3. E. 3. P. 354. & P. 302. P. 2. H. 4. P. 69. & P. 11. H. 7. f. 24.

Si homicide soit fait nient per home, eins per auter casualtie, de ceo surda Deodandum. Deodandum est ou home auient a sa mort per misaduenture d'ascun chose que chiet sur luy, ou per misaduenture dun laps que il mesme suffra, in chiant de ascun chose sans estre enchesonée per ascun auter home; ceste chose quelle enchesona sa morte, serra forfet, et pris come Deodand. Vide Fitz. tit. coron. P. 403.

Concerning casuall homicide, I remember an odde historie of a certaine man who falling from the top of a house, lighted on an other mans necke, and crushing him to death, preserued himselfe. The sonne of the dead man, procuring the reuenge of his fathers death, caused him that fell to bee had before the Iudge: Where hee no lesse pretily then reasonably, offered him this faire play: gett thee vp, q hee, to the top of the same house: I will stand where thy father did: and if by falling vpon mee thou bruse mee to death, and saue thy selfe, I promise thee, my sonne shal neuer seeke to reuenge my death.

Necessitie, Fortune, &c.

Stamford: lib. 1. cap. 5. Homicide fait de necessitie ineuitable pur auancer iustice, est Iustifiable. Car le vicount, Baylie, ou ascun auter, qui ad garrant darrester home endite de felony peut bien Iustifier le tuer de luy, sil ne voile suffrir luy mesme estre arrest, eins estoit al defens tielment, que l'officer ne peut faire l'arrest sans luy tuer. et en tiel case l'officer serra discharge sans attender le grace le roy. s. sans, acquerer pardon, vt patet 22. lib. Ass. p. 55. et tit: coro in Fitz: P. 22. E. 3. P. 2. 61.

Item si plusors veignont a comburer ma meason, moy esteant la dedeins, et inuironnont la meason, mes ils ne ceo comburont: et ieo saetta hors, et occida vn de eux, ceo nest felony, vt patet 26. lib. ass. p. 23. Mesme ley est sils veignont a

ma meason pur moy robber, et mon garcon qui est oue moy in la meason, tua vn de eux. Fits: tit: coro: 3. E.3. Itiner. North: P. 330. per Louth.

Mes coment necessitie serra interprete in homicide seipsum defendendo. Vide Fitz. tit. coro: P. 266. an 43. lib. ass. P. 31. & 3. E.3. P. 284. P. 286. P. 287. & P. 297.

Item, 21. H. 7. 39. Per Tremayle Justice, seruant poit occider home in sauant le vie son maistre, sil ne poit autrement eschaper.

That this hath béene practised in England continually, it may appeare by the discourse of Bracton, who wrote in king Henry the thirds time, in this manner.

Est enim inter alia crimina, crimen quod ex parte tangit ipsum regem cuius pax infringitur, et ex parte priuatam persona n, quæ nequiter & contra pacem regis occiditur. Vnde primò videndum est de homicidio, quid sit & vnde dicatur, quæ eius species, & qua pœna homicidæ punientur.

Est enim homicidium, hominis occisio ab homine facta. Si autem à boue, cane, vel alia re: non dicitur propriè homicidiū.

Dicitur propriè homicidium, ab homine, & cædo, quasi hominis cędium.

Species homicidij sunt multæ. Nam aliud spirituale, aliud corporale: de spirituali verò ad præsens non est dicendum.

Sed corporale est quo homo occiditur corporaliter: & hoc dupliciter committitur; lingua, & facto. Lingua tribus modis: s. præcepto, consilio, defensione vel tuitione. Facto quatuor modis; s. iustitia, vt cum iudex vel iusticiarius reum iustè damnatum occidit. Istud autem homicidium, si fit ex liuore, vel delectatione effundendi humani sanguinis, licet ille iustè occidatur, iudex tamen peccat mortaliter, propter intentionē corruptam. Si verò hoc fiat ex amore iustitiæ, nec peccat iudex ipsum condemnando ad mortem, & præcipiendo ministro vt occidat eum; nec minister si iussus à iudice occidat condemnatum. Et peccat vterq; si hoc fecerint iuris ordine non seruato.

Necessitate: quo casu distinguendum est vtrum necessitas illa fuit ineuitabilis, an non: Si autem euitabilis, & eam euadere potuisset occisor absq; occi sione, tunc erit reus homicidij.

Si

Si autem ineuitabilis, quia occidit hominem sine odij meditatione, in metu & dolore animi, se & sua deliberando, cum aliter euadere non potuisset, non tenetur homicidij.

Casu, sicut per infortunium, cum quis proijcit lapidem ad auem, vel animal, & alius transiens ex insperato percutitur, & moritur. Vel siquis arborem inciderit, & per occasum arboris aliquis opprimatur, & huiusmodi. Sed hic distinguendum est, vtrum quis dederit operam rei licitæ an illicitæ, vt si lapidem proijciebat quis versus locum per quem consueuerunt homines transitum facere : vel dum insequitur quis equum, vel bouem, & aliquis à boue vel equo percussus fuerit, & huiusmodi, hîc imputatur ei. Si verò licitæ rei operam dabat, vt si magister causa disciplinæ discipulum verberauit, vel dum quis deponebat fœnum de curru, vel arborem incidebat, & huiusmodi, & adhibuit diligentiam quam potuit, s. respiciendo, & proclamando, nec nimis tardè aut dimissè, sed tempore congruo & ita clamosè, vt si aliquis ibi fuisset, vel illuc venisset, potuisset a fugere, aut sibi præcauere, non imputabitur ei. Idem iuris est de magistro non excedendo modum verberandi discipulum.

Voluntate, vt siquis ex certa scientia, & in assultu præmeditato, ira vel odio, vel causa lucri, nequiter & in felonia, contra pacem domini regis, aliquem interfecerit. Et fit aliquando huiusmodi homicidium pluribus astantibus & videntibus, aliquando verò clanculum & nemine vidente, ità vt sciri non possit, quis sit occisor : huiusmodi homicidium dici poterit murdrum, secundum quod inferius dicetur.

Pœna verò homicidij duplex est, spiritualis videlicet & corporalis : spiritualis tollitur per pœnitentiam. Et occidit quis alium dupliciter : quandoq; lingua, quandoq; facto. Lingua, vt si quis dissuadendo, retrahit aliquem à proposito volentem alium liberare à morte. Et sic aliquandò indirectè facit quis homicidium. Pœna verò homicidij commissi facto variatur. Nam pro homicidio iustitiæ iusta & recta intentione facto, non est aliqua pœna infligenda.

Si sit aliquis qui mulierem pregnantem percusserit, vel ei venenum dederit, per quod fecerit abortiuum, si puerperium iam formatum vel animatum fuerit, & maximè si animatum

tum, facit homicidium (Yes contrarium tenetur. Fitz. cor. P. 263. & 146. Car a faire homicide, il est requisite, que le chose occise soit in rerum natura.) Possunt & multi culpabiles esse homicidij sicut & vnus, vt si plures rixati fuerint inter se in aliquo conflictu, & aliquis sit interfectus inter tales, nec apparet à quo, vel à cuius vulnere; omnes dici possunt homicidæ, & illi qui percusserunt, & tenuerunt malo animo percussum dum percussus fuerit. Item & illi qui voluntate occidendi venerunt, licet non percusserint. Item & illi qui non occiderunt, nec voluntatẽ occidendi habuerunt, sed venerunt ad præstandum auxilium & consilium occisoribus &c. Item & ille qui præcepit percutere & occidere, quia cum non sint immunes à culpa, immunes esse non debent à pœna.

I haue written the whole discourse, for that there is herein conteined the practise of most of these precepts concerning efficient causes.

Hærevnto may bée added also, our Essoynes de malo lecti, del creteine del eawe, &c. as standing all vpon the same grounds of violent and compulsiue causes, and therefore in themselues reasonable excuses of absence.

Ceux parols, Heyres, tantsolement font l'estate d'enheritance en touts feofmẽts et graũts. Litleton pag. 1. for the sole cause. So agayne Littleton, fol. 166. a. Home ne voyt vnques que cest paroll, Defendemus, fuit en ascun fine, mes tantsolement cest paroll, Warrantizabimus. Perque semble que cest paroll et verbe, Warrantizo, fait la Garrrantie, et est la cause del Garrantie, et null auter verbe en nostre ley.

For the destroying cause, Vide 47. E. 3. fol. vltimo. Nota, que diuorce poet estre per cinq; voyes, s. Causa professionis, precontractus, cõsanguinitatis, affinitatis, frigiditatis. Et nota, que apres diuorce causa professionis le feme serra endowe, et le heyre inherite: mes en auters cases el ne serra endowe, ne le heyre inherite. Here diuorce is a dissolution of matrimony, and the constitution of the one is the destruction of the other.

For instrumentall causes, sée 21. E. 4. 16. per Brigges: Murfait per auter, fait per Luymesme; Come de seruant &c.

et

et Fayrfax, la. 44. b. For voluntary aduise and deliberation, 41. E. 3. 30. per Finche. Si deux sont vouche per lour fayt demesne, et al sequatur sub suo periculo l'un vient, et l'auter fayt defaut; et le tenant surmit que cestuy que fist defaut n'ad rien de fayze en value, il auera l'entiere garrantie vers cestuy que appiere, car fuit son folly de ioynder en garrantie oue cestuy que rien ad. Sic si feme sole ad title d'entre en terres, et prist baron, que suffer discent et ne entra, la feme serra barre del entry apres le mort son baron: car serra dit sa folly de prendre tiel baron, que n'entra en temps. Here the free choyse, will, and election taketh away all occasion of excuse.

Materiall cause.

The materiall causes, as also all other arguments Logicall, are not to bee tied onely to sensible or bodily matters: but generally to bee applyed to any whatsoeuer, bee it subiect to sence, or conceiued by reason. As, a man conceiueth in his mind or memory the Art of Logike or any other science, the matter whereof is their seuerall rules and preceptes, the forme, the due disposition of the same: and yet nether first nor last is subiect to sence, but onely vnderstode by reason, and imprinted in the inward power of mans soule. The old honest philosophers haue had many odde conceiptes and fantasticall imaginations touching this cause, as appeareth by Aristotle in the first of his Metaphysickes. For Thales thought the water was the materiall cause of all thinges, as the Mistical fellowes and Pagan diuines thought ỹ Ocean, Thetis, and Stix to bee. Anaximenes sayde it was the ayze, Heraclitus, the fire, Hesiodus the confusion of the worlde, Pythagoras numbers, Plato litle and great, all whiche and others also are but derided of Aristotle, as though they had thus spoken of the Logicall materiall cause, which should bee generall to all thinges, and not rather of the material ground of naturall thinges.

Canons.

If the thing bee made, then the matter must needes bee. If the matter bee, the thing materiate may bee: if not, then it cannot bee, in secondary causes.

The matter sheweth the excellency or goodnesse of the thinges made thereof: for if the matter bee good, the thing made is good: if better, better: therefore in deliberation and consultation of diet, of building, of weapons, of garments and such like, as also in praysing or dispraising of any thing made, there is an especiall consideration and regard had of the matter.

Theloall his definition of a writte contayneth both the materiall cause and others also. Un briefe est un formal letter ou epistre del roy, escript en le langue latyne, en perchemyne, selæ ouesq; son seale, direct al ascun iudge, officer, minister, ou auter subiect, al suyte del roy mesme, ou al playnte et suyte d'auter subiect, commaundant ou autorisant ascun chose conteigne en mesme la letter de estre fait pur la cause briefement en celle letter expresse, que est d'estre discusse en ascun court le roy per la ley.

The fourth Chapter.

Of the formall and finall cause.

The cause before the thing caused, is as I haue already taught. Now followeth the cause in and with the thing caused, which is eyther the forme, or the end.

The forme is a cause by the which a thing is that which it is, and therefore by the forme thinges bee distinguished.

The forme is euer ingrauen, as it were, in and together with the thing formed, as the reasonable soule in man, and with man the selfe same instant.

The forme is eyther internall, or externall: Internall which is not perceiued by sence. Externall, which is subiect to sence. Externall is eyther naturall, which is ingrauen in euery thing naturally: or Artificiall, which Art hath framed and performed.

The naturall and internall formes of thinges bee hardly either known and vnderstode, or expressed and made plaine.

The artificiall and externall, is much more easily both conceiued

conceiued in reason, and expressed by woorde: and of such there bee many.

In August, Willy describeth the forme of his cup which hee layd against Perigots spotted lambe.

Then loe, Perigot, the pledge which I plight,
A Mazer ywrought of the maple warre,
Wherein is enchased many a faire sight
Of Beares, and Tygers that maken fierce warre.
And ouer them spread a goodly wilde Vyne
Entrayled with a wanton yuy twyne.
There by is a lambe in the Wolues iawes:
But see how fast runneth the shepheardes swayne
To saue the innocent from the beastes pawes,
And here with a sheephooke hath him slayne.
Tell me, such a cup hast thou euer seene?
Well mought it beseeme any haruest queene.

In February, Cuddy describeth the girdle hee gaue Phillis by the forme.

I wan thee with a girdle of gelt,
Embost with buegle about the belt.

And in the same Egloge hee layeth downe the accidentall and externall forme, together with some effectes of his bullocke.

Seest how bragge yond bullocke beares
So smirke, so smooth his pricked eares?
His hornes bene as broade as raynebowe bent,
His dewlap as lythe as lasse of kent.
See how hee venteth into the winde.
Weenst of loue is not his minde?

Maister Plowden: Fol. 15. b. vt supra in le materiall cause: Car le shaping et fesance del toge, est forme del toge.

The ende is a cause for the which, or for whose sake the thing is. Palinode in the fift Aegloge,

Good is not good, but if it bee spend:
God giueth good for none other end.

Thenot in the second Aegloge.

It chaunced after vpon a day
Th'husbandman selfe to come that way.

Of custome for to survey his ground,
And his trees of state in compasse round.

The ende of goodes, is to bee spent: the end of the husbandmans going abroad, was to view his ground.

Maister Plowden: Fol. 18. a. Et pur ceo le scope et fine de chescun matter est deste consider principalment en toutes choses: et si le scope et fine del dit estatute est satisfie, donques tout le matter et lentent del matter est accomply. Et icy le substance et fine del dit estatute, et lentent del feasors de ceo fuit, que le roy auera le subsidie, et ceo solement fuit le scope et summe del dit estatute, et del intent del feasors de ceo. et si lagreement icy est sufficient a doner le subsidie, et de faire le roy deste en suertie de ceo, adonques il ensuist que lestatute et l'entent del feasors de ceo est performe et satisfie. Et que ceo issint est, ieo ay proue deuant; car lagreement garrant et autorize le roy del weyer la woade per son collector, a quel temps que plerra luy, et quant ceo est fait, le roy ad title de action, et essint est en suertie.

Fol. 59. a. Et issint chescun vener sur le terre ne'st entre, Car fuit dit que Littleton en son lyeur tyent le ley destre, que contynuall clayme doyt estre fayt sur le terre, s'il oslast vener la. et en tiel case, sil vient sur le terre, et fayt clayme, et depart mayntenant, ceo ne serra en son disaduantage adiudg vn entre; car il auera assise del primer disseisin, et recouera damages del primer iour del assise. car son entent fuit de faire claime, et nyent de prendre profit, ou de expeller le tenant tout oustterment, et de custodier le possession: et issint lintent del vener sur le terre est destre respect.

Annotations.

The formall and materiall cause bee essentiall partes of the thing caused: the end and the efficient are not so.

The forme is alwaies made by the efficient, the matter is commonly prepared, not alwayes made by it, as the quill is the matter whereof a pen is made, here the maker of the pen, doth but order, polish, and prepare the quill, but hee altogether maketh the forme and fashion of the pen. And although forma bee effectum efficientis, yet it is causa formati.

Dicitur

Dicitur forma à formando, differentia verò quia differre facit: vna enim eademq; res est, etsi diuersa nomina: and according to these two names, hath Aristotle in the first of his Topiks assigned it two properties; The one for giuing essence and knowledge of the same essence, the other for causing difference: And in respect of the former, it is sometimes called, τὸ τί ἦν εἶναι, quod quid erat esse, as 1. post. Sometimes λόγος τῆς οὐσίας, ratio essentiæ, 1. de ortu animal: sometimes οὐσία τοῦ πράγματος, essentia rei, 1. Philo: sometimes λόγος εἰδικὸς καὶ οὐσιώδης, ratio specifica & essentialis, 4. Phil: sometimes εἰδοποιὸς, σύμπληρωτικὸς, συστατικὸς, specifica, completiua, constitutiua, as in Porphyry: and sometimes μορφὴ καὶ λόγος, forma & ratio: sometimes εἶδος καὶ παράδειγμα, species & exemplar, 5. Phil. In consideration of the latter property, it is commonly called διαφόρα, differentia, for that especially by the forme things differ one from another; so the formall cause of man is his reasonable soule, for this maketh man, to bée man, and to differ from all other thinges that bée not man. So euery naturall thing hath his peculiar forme, as a lyon, a horse, a trée, &c. the heauen, the earth, the sea, &c. So euery artificiall thing also, as a house, a shippe, &c. So things incorporall, as vertue, vice, &c. So in a word, whatsoeuer is, by the formall cause it is that which it is, and is different from all other things that it is not.

Onely the forme among all other causes is ὁμόγονος, simul congenita, extant at the same instant with the thing formed: so that there is a most necessary and reciprocall consequence betwéene the forme and the thing formed. But now, as the vnderstanding of the formall cause causeth surest knowledge, so hardly can wée vnderstand what the formall cause is; which peraduenture made Democritus thinke that truth lay hidden in the bottome, and plunged in the déepe. Indéede wée generally conceaue and gather, that euery particular thing hath his peculiar forme, but what is the peculiar forme of euery particular thing, that we know not; or if peraduenture wée gesse at them now and then, yet hardly can wée expresse our conceits with laboursome and tedious circumlocutions. So that, for the most part things bée not knowne,

and if they bée in part perceiued, then haue wée no names for the thinges. Here therefore the auntient philosophers were wonderfully troubled, as Aristotle reporteth 2. Meta. Pythagoras would haue his numbers to bée ỹ cause of things, and that euery thing was an image or resemblance of numbers: and Plato altered their wordes a little, saying that Idæa was the forme, and that thinges formed were communications and participations of Idæas: of whome Aristotle concludeth thus, that they valdè simpliciter & imperitè egerunt, & hée sæmed but nugari, & poeticas metaphoras loqui.

Canons.

IF you remoue the forme, it is impossible for the thing formed to consist.

Such is euery thing, as the forme permitteth it to bée.

The forme is the fountayne of actions.

The forme of euery thing is the especial part of ỹ thinge, and the alteration of the forme chaungeth the thing formed, and maketh it an other thing: but hére wé must distinguish betwéene the vniuersall chaunging of the forme, and the particuler alteration thereof. For if a house bée vtterly defaced, though it bée reedified of the selfe same timber and stone, yet it is not the same house, but if it bée but a litle decayed and so repayred in part, it remayneth the same house still, though in continuance of time, euery stick and stone bée altered by often repayring of it.

The formall cause is generall, as all other partes of Logike. For the declaration whereof I will purposely note out some examples of the formall cause in actions and exercises aswell as thinges corporall.

Formalitie in pleading is now partly abridged by the statutes of 32. H.8. ca. 20. 18. Elis. ca. 14. and 27. Elis. but how much it was estéemed heretofore, sée 14. H.8. 27. per Brooke Justice. Car vn forme couyent d'estre tenus et vse, ou autrement touts choses serra en confuse et sans order. Car en trespasse couyent doner colour (et vncore le sentence n'est le melieur en le veritie del matter) pur ceo; est formalitie. Et a vne plée en l'affirmatiue couyent prender auerment: et si

soit

soit en le negatiue, couyent concluder al negatiue, et ceo n'est forsq; formalitie : et formalitie est le pluis chiefe chose en nostre ley.

And the booke of Entries standeth all vpon formall precidents of declarations, barres, replications, reioynders, surreioynders, rebutters, issues, verdites, iudgements, executions, processe, continuances, essoynes &c.

Brytton, whose booke was published in Edward the first both time and name. Fol 42. describeth the order and forme of battayle, but somewhat discrepant from the forme described, 17. E. 3. and 19. H. 4.

In 11. H. 6. 7. the ioyning of battayle in a writ of right is solempnly set downe, betwéene sir Piers Colts and the Earle of Northumberland for the maner of Capenhow.

Sée 14. E. 4. 8. the forme of punishment called Fort et dure, pronounced in Newgate by Justice Needham. vide 8. H. 4. 2.

Finall cause.

Ramus in his French Logike placeth the end first, fifth, according to Aristotle in the second of his Physikes, the ende is first in conceipt and consideration, though last in execution. But in the last edition of his Latine Logike hée setteth it in the last place, respecting rather finem rei, then efficientis scopum & intentionem, which last resolution of his I follow at this present, yet not so resolutely, but that I can bée content to heare their aduise, who bid vs take héede that we confound not the finall cause with the thing caused : which wée shall the better do, say they, if wée consider exactly the order and due coherence of the foure causes in the absolute constitution of a thing caused. For first, the finall cause, the end, purpose, intent, drift, marke, or scope, as it were of the whole action, is propounded to the efficient, and so vrgeth and moueth him to prepare the matter, and apply the forme therevnto for the full accomplishing of the enterprise : which beeing once performed, the efficient cause now ceaseth, as hauing obteined that it sought for. And this béeing thus atchieued, is not the finall cause, but the thing caused. As for example, I purpose to sweate, and therefore I daunce : héere

the ſweating is not the finall cauſe, but the intent and purpoſe which I had to ſweate, is the cauſe that moued mée daunce, and ſo cauſed mée to ſweate, which ſweating is the thing cauſed: and although in vulgar ſpéech, the vſe of a thing and the end of the ſame thing bée confounded, yet by art and reaſon they ſhould bée diſtinguiſhed, the one a cauſe, the other a thing cauſed. If any man obiect, that if wée ſay the end is onely the purpoſe of the efficient, then this place will bée reſtrained to ſuch things onely, as vſe reaſon, and can purpoſe, where all Logike muſt bée generall, and applyable as well to Non ens, as to Ens, to that which is not, as that which is: they aunſwere, that wée néede not take this word, purpoſe or deliberation ſo ſtrictly, as to apply it onely to reaſonable creatures, but generally ſay, that euery thing worketh for ſome end and purpoſe, whether it bée by natures inſtinct, or voluntary conſultation. Or if this ſéeme more philoſophicall then religious, wée may ſay, that in all artificiall thinges, and ſuch naturall things as haue no deliberation, that which wée call the ende, is but the thing cauſed by them, and the cauſe finall is the purpoſe of God in naturall thinges, and the intent of the artificer in things that bée artificiall.

Et finis mouet efficientem, & cogitatio de fine: finis vt obiectum, cogitatio de fine, vt adiunctum agenti inhærens, ſayth Piſcator. Some others make the finall cauſe to bée nothing but a part of the efficient, and no diſtinct cauſe it ſelfe, ſith it onely moueth the efficient to forward the operation.

The end is chiefe, or ſubordinate: chiefe, which the efficient deſireth for it ſelfe, as the couetous man Riches, and it is either vniuerſall, to the which all thinges in the world generally be referred, as Gods glory; or ſpeciall, whervnto euery thing in his kinde is referred, as the houſe is the ende of the builder, for hée ſéeketh no further. Subordinate is that which is not for it ſelfe deſired, but referred to the chiefe end.

Canons.

If the ende bée, then the thing muſt alſo be whoſe ende it is: and if the ende ceaſe to bée, then the thing whoſe ende it was, can no longer bée.

Euery

Euery thing is referred to his ende.

The end doth eyther allow or disallow euery mans action; Or thus, that is good, whose end was good, and contrarily: Sic *Aristotle* 3. Rhet. *Laco*, cum rationem de *Ephoratu* in iudicio redderet, rogatus, an ipse alios iure perijsse existimaret, assensus est: Ille verò, nonne hæc tu cum illis decreuisti? & ille assensus est: nonne igitur & tu (inquit) peribis? Minimè verò, inquit: illi enim pecunijs acceptis hęc commiserunt, ego verò nequaquam, sed ex sententia.

The end is more to bée desired, than those things that bée referred to the end. He that séeketh the ende, séeketh also those things that bée referred to the same end.

All the arguments that common Rhetoricians fetch from Honestum and Vtile, are for the most part derined from the end or finall cause, sith for the cause of these two, most things are enterprised. In like maner, the gesses and coniectures of Iudges are fet from the end, as, hée was most like to worke the mischiefe, who might haue any end or profit in practising of the same.

Whose vse is good, that is good, but not contrarily, the thing is bad, because it is abused.

The end doth not alwaies follow the efficient cause, eyther because the efficient could not accomplish the thing alone, or els because hée would not. Theloall. lib. 7. cap. 2. Le finall intent del chescun que pursuyte briefe, est, ou a recouerer seisin ou possession de terre ou tenement, ou d'auer chose dont home peut auer heritage, ou franktenement, ou terme; ou d'auer remedy et recõpence pur iniury et damage a luy auenue per le act, ou non fealsance d'un auter, ou pur le non performance des contracts et obligations ou auters parts et causes que sont come contracts.

Home vient pur auower son atturney, cest presence ne serra dit apparance, car son intent, ne fuit d'apperer al briefe &c. 8. H. 7. 8.

Abuses of causes.

Sophistry, as I haue said elswhere, is no Logike: & therefore least I should iniury the art by ioyning sophisticall fallacians with Logicall institutions, I haue rather reserued

them to these annotations, then thrusted them in among the precepts. Some vse, I confesse, there may bee had of them (although I know, that who so throughly perceaueth the truth of this art, nedes to seeke no other meanes to auoyde these deceipts, sith Rectū est index sui, & obliqui.) But if wee shall put downe euery thing in Logike, which hath any litle shew of profite therevnto; Grammer will be good Logike, because it helpeth vs to vtter ỹ which wee haue Logically conceaued.

The word, Sophista, was at the first, a title of commendation, and onely applyed vnto him that was a Philosopher or teacher of wisedome. But now it is become odious, as Tyrannus, and such like. Sophistry therefore is the abuse of Logike, deceiuing the simple with a glorious shew of counterfeit reasons, commonly called Fallacians.

Fallacians bee eyther in the word, or in the reason. Fallacians in the word beeof two sorts, some in a simple word, some in the coniunction of wordes. In a simple word bee three. The first is when vnusuall and vpstart wordes bee foisted in, as hee putteth his felicitie in circumpugnable goods, circumpugnabilibus bonis, meaning Riches, because men fight about them. Le seignieur des Accords in his Bigarrures, pag. 198. hath many of this making, although somewhat more tollerable, because of the ridiculous application. Ils font (saith hee, speaking of some French Carminificators) de petitelettes descriptionettes qui sōt fort agreabletets aux oreillettes delicatelettes, principallettement des mignardelettes damoiselettes, Come

Ma nymphe follastrelette,
Ma follastre nymphelette. And after
Ie vous vens une goutette,
Vne goute clairelette:
Vne claire goutelette,
Qui vient d'une fontenette,
Miguarde fontenelette,
Fontaine mignardelette. &c.

And page 65. of another sputatilicall gose, he saith thus.

Vn certayne predicant qui veuloit Pindariser en chaire, et choisir des mots courtisans, pour applaudir a quelques

damoiselles

damoiselles fraischemẽt reuenues de la cour, auoit coustume de inuenter des mots, et entre autres, il appelloit la destinée, Fatũ in latyn, fat in Francois, sur quoy vn gentil personage rencontra ce distique

Frere Iehan Chassepoi, tu te romps trop la teste
De nous prescher le fat escrit par *Ciceron* :
Ne t'eschauffe pas tant, va, tu n'es qu'vne beste,
Pour bien monstrer le fat, oste ton Chapperon.

The like absurditie would it bée for a man of our age, to affectate such wordes as were quite worne out at héeles and elbowes long before the natiuitie of Geffrey Chawcer.

The second is, when doubtfull and ambiguous words bée vsed, as in those verses of Martiall, where, tuus, is eyther thine by gargayne, or by inuention.

Carmina Paulus emit ; recitat sua carmina Paulus :
nam quod emis possis dicere iure tuum. And that,
All the maydes in Camberwell
may daunce in an egge shell. Of a little village by London, where Camberwell may be taken for the Well in the towne, or ỹ towne it selfe. So that, Ware and Wadesmill bée worth al London. Where Ware is either ỹ towne Ware, or els merchandize. So lastly, the Mayre of Earith, is the best Mayre next to the Mayre of London. Where the towne, God knowes, is a poore thing, and the mayre thereof a séely fellow, in respect of the Mayres of diuers other cities, yet it is the very next to London, because there is none betwéene.

Accords pag. 96. vne ieune damoiselle interrogée en quelle espece d'oyseau elle desireroit veoir son amy, si nous estions aux temps des Metamorphoses, elle dit, qu'elle le voudroit veoir en Phaisant : vrayement vous aues raison, dit dame Jaquette caquillon, il ne scauroit estre plus agreable qu'en le faisant. Yeare not the word written, but the voyce and sound caused the ambiguitie.

The third and last is, when store of Metaphorical words is the cause of a ridiculous obscuritie, as if a man meaning to bée brief, should promise that hé would gallop ouer al the rest of his text. Wherefore Arist. reprehended Plato for that his spéeche was obscure and ambiguous by reason of Metaphors.

When any of these three fallacians bée vsed, wée may say with him in Tully, Sputa quid sit, scio: Tilica, nescio. Wée may desire him to speake better English.

In the coupling or coniunction of wordes bée two: the first is Amphiboly, when the sentence may bée turned both the wayes, so that a man shall be vncertayne what waye to take, for this is the signification of the grèeke worde Amphiboly, and this fallacian commeth not from the diuers signification of any one word, but from the ambiguous construction of many wordes, as that olde sophister the Deuill deluded Pyrrhus by giuing him such an intricate answere.

Aio te, *Aeacida*, Romanos vincere posse.
I now foretell the thing to thee
which after shalbe knowne;
That thou, king *Pyrrhus*, once shalt see,
the Romaines ouerthrowne.

Where this word, ouerthrowne, may eyther bée the nominatiue case and appliable to king Pyrrhus; or the accusatiue, and attributed to the Romaynes. The like is that giuen to Cræsus.

Cræsus Halyn penetrans magnam peruertet opum vim. Where hée hoping to haue destroyed Cyrus and the Persian power, ouerturned his own estate, as Herodotus reporteth. Such an one was that also giuen to the countesse of Flaunders concerning the battell betwéene her sonne Ferrande and king Philip, Que le roy seroit abatu, foulle aux pieds des cheuaux sans sepulture, et Ferrand receu a Paris en grand pompe et triomphe apres la victorie. Where the king, although troden downe, yet dyed not, but ouercame, and triumphed at Paris ouer Ferrande, who was then taken prisoner contrary to the expectation of the Countesse. Cardan de Martin Abbot of Assello, had this verse ouer his gate.

Porta patens esto nulli. Claudaris honesto.

Where, by the error of the Paynter, the poynt béeing made after, nulli, caused the Pope which roade that way, to displace Martyn, and preferre another to his rome, who reteyned the verse, but altered the poynt, & put it immediately after esto, thus. Porta patens esto. Nulli claudaris honesto.

Where-

Whereupon these verses went together.

Porta patens esto. Nulli claudaris honesto.
Ob solum punctum caruit *Martinus Asello.*

The verse of it selfe is very ambiguous, if the poynt bee altogether omitted, Porta patens esto nulli claudaris honesto.

The seconde is in the vnorderly expounding of the words, as

No sicknes can bee health:
Dido is sicke,
Therefore she cannot be whole.

For if you turne the words into good order of exposition, the falsenes of the proposition will easily appeare, thus, No sicke body can be whole.

Thus much of such fallacians as bee in the words eyther seuered or conioined: which indeed are rather Grammaticall and Rhetoricall than belonging to Logike: Those that are in the reason be more Logicall: whereof some belong to Inuention, some to Disposition.

Fallacians of Inuention are eyther common to all the places, or peculiar to some certaine places.

Common to all bee two. The first is called, Petitio principij, the requesting of the thing in controuersie: when, to proue any thing, wee seeke to haue, eyther the same in effect graunted vs, or some other thing as doubtfull. Petitio principij then, is eyther when the same thing is proued by it selfe, as, The soule is immortall, because it neuer dyeth: Or when a doubtfull thing is confirmed by that which is as doubtfull, as

The earth mooueth,
Because the heauen standeth still.

The second is, Superfluitie: eyther when wee cast in things impertinent: or els in vnnecessary repetitions of the same things.

For the first, that may serue for an example, which Tully hath in his second booke of Diuination: as if a physitian should commaund his patient to take such a beast, as is bred of the ground, walketh on grasse, carrieth her cottage, and wanteth bloud, whereas hee might with lesse labour,

and to better purpose haue willed him take a Snaile, which hée calleth

Terrigenam, herbigradam, domiportam, sanguine cassam.

To this example you may adde that of Martiall, as more conuenient. lib. 6.

Non de vi, neq; cæde, nec veneno,
Sed lis est mihi de tribus capellis:
Vicini queror has abesse furto,
Hoc iudex sibi postulat probari.
Tu Cannas, Mithridaticumq; bellum,
Et periuria Punici furoris,
Et Syllas, Marioscq; Mutioscq;
Magna voce sonas, manuq; tota.
Iam dic Posthume, de tribus capellis.

Much like as if a preacher in expounding a text of chartie, should talk out his houre-glasse, in discoursing of Bell the Dragon of Babylon. To such fellowes wée may say, turne to your text, or Iam dic Posthume de tribus capellis.

For the second, which is vnnecessary repetition of the same thing, this shall suffice, that when I haue generally put downe the nature of an argument, it were sophisticall to repeate the same in euery particuler, as, when I haue once sayd generally, that an argument is that which is affected to argue, what néede I in the particuler discourse of a cause to say, a cause is that which is affected to argue.

Now let vs come to the particuler fallacians of seuerall places. And first for the causes. It is sophisticall to argue from that which is no cause: as if it were a cause. So Sinon the false caytife fayneth a cause why the wooden horse was builded.

Hanc pro Palladio moniti, pro numine læso,
Effigiem statuêre, nefas quæ triste piaret.

It is, and alwayes hath béene a common practise among lewd men, to pretend counterfaite causes to cloake their malitious intent, and disgrace other mens good meaninges. The true cause therefore must bée carefully distinguished from the shadow ouercast: Arist. 2: Rh. à non causa quasi causa, quippe propterea q; simul, aut post eam euenerit: quod

enim

enim post illam est, æquè ac propter illam accipiunt, maximeq; qui in republica versantur, vt *Demades*, *Demosthenis* politiam causam calamitatum omnium extitisse, quia post eam bellum est excitatum.

Also in efficient causes, the diuers kindes of working must bée diligently considered, as, what causes can worke alone, what require the helpe of others, what worke necessarily, what voluntarily, and so forth.

The fift Chapter.

Of the thinge caused.

THe thing caused is that which is made by the force of all the causes, which vsually, although not so properly, is called the effect.

Howsoeuer any thing bée altered, moued or changed, the motion, and the thing moued, or chaunged, belong to this place, and are called effects, or thinges caused: as also, sayinges and writinges, thoughtes and all cogitations, although neither vttered nor accomplished.

Matter of praysing and dispraysing commonly is fet from this place. So in Februarie, Thenot telleth how the Friar made a pitifull complaint to the husbandman, dispraising the Dake, and exclaiming against it, by reason of his iniurious dealing: which hée at large putteth downe to incense the husbandman against the Dake.

How fals it then that this faded oke,
Whose body is seare, whose braunches broke,
Whose naked armes stretch vnto the fire,
Vnto such tyranny doth aspire?
Hindring with his shade my louely light,
And robbing me of the sweet suns sight?
So beate his olde boughs my tender side,
That oft the bloud springeth from wounds wide.
Vntimely my flowers forced to fall,
That bene the honour of your coronall.
And oft he lets the cankred wormes light

Vpon my braunch to woorke me more ſpight.
And oft his hoary lockes downe doth caſt,
Wherewith my freſh flowers bene defaſte.
For this, and many more ſuch outrage,
Crauing your goodhyhead to aſſwage
The rancorous rigour of his might,
Nought aſke I but onely to holde my right.

In May Piers prooueth the shæpheards to bée euill, by their effects, thus:

Thoſe faytors little regarden their charge,
While they, letting their ſheepe run at large,
Paſſen their tyme that ſhould be ſparely ſpent,
In luſtyheade and wanton merryment.
Thylke ſame bene ſheepheards for the deuils ſted,
That playen whiles their flocks be vnfed.

In the ſame Aegloge Palinode **ſetteth forth the effectes of youth agréeable to the pleaſantnes of the time.**

Youths folke now flocken in euery where
To gather May buskets and ſmelling brere,
And home they haſten, the poſts to dight,
And all the kirke pillers ere day light,
With hawthorne buds and ſweet Eglantine,
And gyrlonds of roſes, and Sops in wine.

In July, Thomalin **prayſeth** Chriſt **the great shépheard, by his effectes.**

O bleſſed ſheepe, ô ſheepheard great,
that bought his flocke ſo deare,
And them did ſaue with bloudy ſweat
from Wolues that would them teare.

In the eight Aegloge Piers **rehearſeth the effects of loue, in theſe woordes.**

Ah fone, for loue does teach him climbe ſo hye,
And lifts him vp out of the lothſome myre.
Such immortall myrrour as he doth admire,
Would raiſe ones mynde aboue the ſtarry ſkye,
And cauſe a captiue courage to aſpire,
For lofty Loue doth loath a lowly eye.

Colyn in December repeateth the pastimes and effectes of his youth in these verses.

Whylom in youth, when flowrd my ioyfull spring,
Lyke swallow swift I wandred here and there.
For heate of headlesse lust me so did sting,
That I of doubted danger had no feare.
I went the wastfull woods, and forrest wyde,
Withouten dread of wolues to bene espyde.

I woont to raunge among the mazy thicket,
And gathered nuts to make me Christmas game,
And ioyed oft to chase the trembling pricket,
Or hunt the hartles hare till she were tame.
What wreaked I of wintry ages waste?
Thoe deemed I my spring would euer laste.

How often haue I skaled the craggy oke,
All to dislodge the rauen of her nest?
How haue I wearyed with many a stroke
The stately wallnut tree? the whyle the rest
Vnder the tree fell all for nuts at strife,
For ylike to me was libertie and life.

And so after, in the same pitifull lamentation, the effectes of his sommer and winter bee set downe.

But in March, Thomalins long tale of Cupide, hath almost nothing els, but a rehearsall of his owne dwinges and Cupids. The narration is this.

It was vpon a holyday
When sheepheards groomes han leaue to play,
I cast to go a shooting:
Long wandring vp and downe the land
With bow and bolts in eyther hand
for byrdes in bushes tooting.
At length within an yuy tod,
There shrowded was the little god,
I heard a busie bustling.
I bent my bolt against the bush
Listning if any thing would rush,
But then heard no more rustling.

Thoe peeping close into the thicke,
Might see the mooying of some quicke,
Whose shape appeared not.
But were it fayry, feend, or snake,
My courage earnd it to awake,
And manfully thereat shot.
With that sproong foorth a naked swayne,
With spotted wings, like peacocks trayne,
And laughing lope to a tree:
His golden quiuer at his backe,
And siluer bow which was but slacke,
Which lightly he bent at mee:
That seeing I, leueld agayne,
And shot at him with might and mayne
As thicke as it had hayled:
So long I shot that all was spent,
The pumy stones at last I hent
And threw, but nought auailed.
He was so wymble and so wight,
From bough to bough he stepped light,
And oft the pumyes latched.
Therewith affrayd I ran away,
But he that earst seemd but to play,
A shaft in earnest snatched:
And hit mee running in the heele;
For then I little smart did feele,
But soone it sore increased;
And now it rankleth more and more,
And inwardly it festreth sore,
Ne wot I how to cease it.

Maister Plowden: Fol. 163. a. Et certes, les Cloysterers communement en feasant lour leases et faits, auoyent vn forme, lequel ils cy precisement voile tener, et pursuer, que ils voillent, marrer tout, pluistost que alterer lour custome: et issint purceoq; ils ne voilent encliner lour forme al ley, mes voilent auer le ley a incliner a lour vsage, ils destroyeront le force de plusours fayts.

Annotations

Annotations.

This argument of the thing caused conteyneth not onely dœdes and wo3kes, but also thoughtes, and wo3des, counsayles and deliberations, and all motions whatsoeuer. Parmenio the father, and Philotas the sonne, were both put to death fo3 suspicion of treason against Alexander: Where, their cogitation and compassing of their Souereignes death, were such effectes as were plagued by death. Fo3 like occasion also were Lentulus, Cethegus and other complices of Catyline b3ought to confusion.

Yet when sayinges, w3itinges, counsayles, and deliberations bee b3ought in as testimonies, then are they argumentes bo3rowed, assumpta aliunde.

Canons.

Wee commend men by their causes and adiuncts, as fo3 their noble auncesto3s, great possessions, &c. but especially by reason of their effectes, as fo3 that they did this o3 this &c.

Nam genus, & proauos & quæ non fecimus ipsi,
Vix ea nostra voco.

And as fo3 Riches, perinde sunt, as hee that vseth them: good, if hee apply them well: bad, if otherwise.

If the thing caused bee, then the cause eyther is o3 was, but not alwayes contrarily.

Such as the thing caused is, such commonly is the cause.

That which is attributed, o3 not attributed to the thing caused, must bee applyed o3 not applyed to the cause.

Fit. Cor. 22. E. 3. p. 26. Thorpe recita coment vn gaoler vient al gaole oue vn lanterne en sa maine a veier ses p3isoners, queux auoyent deb3use lour fers, et estoyēt touts p3ests d'auer occise luy, et batoyent et naufroyent luy malement: mes il auoyt vn hatchet en sa maine, oue quelle il occist trois de eux, et puis eschapa, et fuit aiudge per tout le counsell, que il auoyt bien fayt.

Stanford: lib. 1. ca. 9. Nota, que en auncient temps la volunt fuit cy materiall, que il fuit repute pur le fait. Fit. Cor. 15. E. 3. P. 383. ou vn compassant le mo3t d'auter, luy naufra cy grœuousement, que il luy lessa giser pur mo3t, et pius s'en-

fua, et l'auter reuiua, et non obstant, fuit aiudge felony, eoq; quant ſa volunt apiert cy ouertment de luy auer tue, voluntas reputabitur pro facto et oue ceo accorda Bracton qui dit, In maleficijs ſpectatur voluntas & non exitus, & nihil intereſt vtrum quis occidat, an cauſam mortis præbeat. Mes le ley n'eſt illint a ceſtiour. Car il doyt morir en fayt, auant que il ſerra aiudge felony. Et ſi home feriſt auter oue intent de luy bater, mes nemy a luy tuer, vncore ſil morust de tiel bater, il eſt felony en luy que feriſt: perq; a ceſt iour, home peut conuerter le dit tert de Bracton, et dire, q̄ Exitus in maleficijs ſpectatur, & non voluntas dundaxat.

Elenchs.

Martiall vſeth this argument ſophiſtically in his firſt booke.

Extemporalis factus eſt meus Rhetor,
Calphurnium non ſcripſit, & ſalutauit.

As though this were an affect of an extemporall Rhetor, to ſalute a man by name without premeditation. But here hys meaning was to bée merry, in taunting the man for his ill memory, who could ſkarce remember his familiar friendes name, vnleſſe hée had written it before, and learned it without booke.

The ſixt Chapter.

Of the whole, part, generall, ſpeciall.

HItherto of the firſt diuiſion of argumentes fully agréeable, in the cauſe and the thinge caused. Now followeth the ſecond. Secondly therefore the argument fully agréeable is eyther the whole and his part, or els the generall and his ſpeciall.

The whole is that which conteyneth partes: the part is that which is conteyned of ỹ whole. The whole is integrall, or vniuerſall: The whole integral is that which hath his eſſence or béeing of the partes, as Logike hath two partes, expoſition of argumentes, and diſpoſition of the ſame, and of theſe two parts the whole eſſence and nature of Logike conſiſteth. So a meſſuage is made of two partes, del terre et

ſtructure.

structure. And hére the part is called a member, and is that which giueth essence to the whole, as Exposition and Disposition in respect of Logike, terre and structure in respect of a messuage.

The whole vniuersall, called the general, is such a whole as giueth the essence or béeing to his specials; as, an Inherent argument, is the generall, conteyning originall arguments, and those ý are secondary as his specials. For here an inherent argument is a whole essence, which doth equally perteyne to originall arguments, and such as are secondary.

The speciall is a part of the generall, as arguments first and secondary are specials of an Inherent argument, as being parts put vnder it indifferently and equally or alike.

The general is eyther most generall or subalternall, the speciall is either most speciall or subalternall, that is, put vnder.

The chiefe or mosse generall is that which hath no generall aboue, As in Logicall Inuention, an argument, is the most generall, comprising both Inherent and borrowed argumentes vnder it.

The generall and speciall subalternall, or vnder another, are those which may bée in diuers respects both generals and specials: generals, in respect of their inferiors; specials, in respect of their superiors, as, a cause, is a speciall in respect of an argument fully agréeable: but it is a generall in respect of the materiall or formall cause.

The most speciall is that, which cannot be deuided into specials, as this or that singuler materiall or formall cause conteining none other vnder it.

Generals are certayne resemblances of causes in themselues comprehended; as specials are of effects. Speciall examples referred to their generals, belong to this place.

Annotations.

HOttoman. Totum & partes vtrum prius an posterius sunt, anne simul? primum distinctio adhibenda est, vt aliud sit totum naturale, veluti arbor, fundus, auis, equus: aliud artificiosum, veluti domus, nauis, currus. si naturale totum est, ve-

risimum est quod *Aristoteles* libro de natura octauo scribit, prius esse, & naturæ, & temporis, & rationis ordine, id quod perfectum est, eo quod est inchoatum. sin autem artificiosum est, tum eiusdem *Aristotelis* monitu, altera distinctio adhibenda est, vtrum subtiliter & artis ratione, an populariter ex sermonis consuetudine disseratur. Nam quia subtili ratione ea demum pars verè proprièq; dicitur, quæ suo munere fungitur, fungi autem suo munere, nisi suo toti inhærens, non potest, certè totum & pars naturæ ac temporis ordine simul sint necesse est. Nam vbi est domus, ibi necesse est esse tectum, & vbi tectum reuera tegens, ibi necesse est esse domum: vbi currus, ibi rota; & vbi rota reuera, & actu voluëns est, ibi currus: sin autem populariter loquamur, & homonymia, id est, communione nominis abutamur, tùm verò pars dicetur esse prior, totum verò posterius, vt area, quam iuris consulti potissimam domus partem appellant, priòr est ædificio; & fundus priòr vitibus, aut arboribus, aut fructibus.

Canons of the part.

If you put downe or affirme all the essentiall partes, you must also put downe the integrall it selfe. But if you put downe one, or some of the parts onely, you cannot therefore put downe the whole; for the partes, not seuered, but all ioyntly, make vp the nature of the whole.

If you deny or take any one essentiall parte away, the whole is also gone.

Of the Integrall.

Prohibitus à toto, prohibitus est à qualibet parte.

He that hath the whole, hath also the principall or essentiall partes.

Although yée put downe all the parts, yet vnlesse they bée conioyned, the whole will not necessarily follow.

If you deny the whole, all the partes are not therefore straightway denyed, vnlesse you meane, that the whole bëing gone, the remnant is not properly to bee called a parte, Vt non est tectum, nisi tegat, &c.

7. H. 7. 8. a. b. 20 acres fueront agrée d'estre touts temps parcel del manor, Ergò sil deuy seisie del manor, il deuy seisie des. 20. acres.

That

That which agréeth with the whole Integrall, must also agrée with the parts conioyned, but not seuered.

If the whole bée not attributed to any thing, it will not follow, that therfore no part should bée applied vnto it.

The whole Integrall cannot bée affirmed of any one of his parts: for a part is not the whole: but all the parts together make the essence of the whole. But the generall may bée affirmed on one speciall, for that the whole nature and essence of the generall is in euery one of the specials, so that the speciall is the same thing indéede with the generall. (although not in such ample maner) or rather a patterne and resemblance of the generall. Yet, as the speciall conteyneth in it somewhat more than the generall (I meane, his proper formall cause moreouer and besides that hée had of his generall) so the generall comprehendeth vnder it more than one speciall; as béeing therefore common and indifferently applyable to many, because it is abstract from all, and not determinately bound to any. Wherevpon they say in schooles, Genus abstrahit ab vtroq;, vt possit esse vtrumq;, and conteyneth vnder it, not in it, repugnant specials, according to Porphyry. Yet, notwithstanding all this, you may affirme the Integrall on his parte in a simple axiome, so that this worde, Part, bée added therevnto, as, Inuention is a part of Logike, the body is a part of man. Integrall.

21. H. 7. 21. per Fineux, & Tremayle Iustices, le person auera trespas de arbres coupes et emportes en le cimitorie, et d'entry et infreindre del eglise, car l'eglise, le cimitorie, et les dismes sont le Rectorie. Generall.

Litleton. pag. 80. Si soit rent, il serra rent seruice, charge ou seck, mes n'est, &c. Ergo. Et pag. 90. Chescun que ad franckstenement, ad vel fée, vel tayle, vel pur vie, vel auter vie: mes n'est issint icy. Ergo. Generall.

21. E. 4. 79. Si essoine gist pur corporation, tùm vel hoc vel illud, &c. sed nec l'essoyne de mal vener gist pur ceo, nec de malo lecti: car ceux excuse defaut, et ils ne poient appearer in person; et ils touts ne serront sicke ensmble: nec de seruitio, nec de vltra mare, nec de terra sancta, car ils ne serrõt intendes d'estre touts in tiel case, Ergo nul essoin gist pur corporation.

In assise, le pl. dit, que le terre est tenus d'un tiel, come de son manor de D. que est auncient demesne: le def. in maner confesse ceo, et tamen il prist general auerment, que parcell del mesme le manor, le quel il ad conus d'estre auncient demesne, serra francke fée, sans monstre coment per matter speciall; que n'est reason, car chescun chose serra intende del mesme le nature, come le chose est, dont il est parcell. Sic hic le manor de D. est conus d'estre auncient demesne, & sic per consequens serra intende, que tout ceo que est tenus del dit manor, serra del mesme le nature prima facie. 3. H. 6. 47. a.

Generall. Speciall.

The generall is nothing els, but a multitude or vniuersality of thinges like in essence, or one like essence in many thinges.

Hottoman. γενος εσι (vt *Zeno* apud *Laertium* definit) πλείονων ἐννοημάτων σύλληψις. Itaq; plures cognati qui sanguinis eiusdem communione inter se cohærent, quam ab vno eodēq; capite duxêrunt, idcirco à Græcis appellantur ὁμόγενες vel σύγενες, cum alij, qui gentis ac stirpis alterius sint, ἑτερόγενες vel ἀλλόφυλοι, alieni & extranei nominentur. So that this word, Genus; is Metaphoricall.

The higher you ascend, the more generall thinges bée: the more generall thinges bée, the fewer particuler proprieties are they tyed vnto: and therefore the moste generall doth agrée to most particulers. But, the lower you descend, the more is alwayes in particularitie comprehended in the words, so that they can not bée applied to so many.

The generall precepts put downe in all Artes, were first inuented by the induction of many particulers and specials.

The generall béeing affirmed vniuersally, euery one of his specials must also necessarily bée affirmed. But if the generall bée but indefinitely, simply, or vndeterminately put downe; some one of his specials must indéede bée put downe also, and that necessarily, but no certayne one aboue the rest, but onely contingently, as If there bée any driggle draggle in Shrewsbury shée must bée eyther Jenny Dymmocke, or some other: this is necessarily true: but it is but contingent

to

to say, that if there bée any, it must néedes bée thée: for there may be many others also.

Generi per speciem derogatur. Nam qui de vna aliqua specie loquitur, is cæteras sub eodem genere contentas species non dissimulanter excludit, sic legatum speciale detrahit generali.

Denie the generall, howsoeuer you list, and all his specials bée denyed.

Whatsoeuer is attributed to the vniuersall nature of the generall, must bée giuen to the specials. But there may bée many thinges applyed to the indefinite nature of the generall, which cannot bée ascribed to any of his particulers, vnlesse the thing bée common both to the generall and speciall.

Of the speciall.

The speciall doth onely conclude affirmatiuely, vnlesse all the specials bée denied togither.

If you put downe one, more, or all the specials, you also put downe the generall, for that the nature and essence of the generall is in euery of the specials. If you deny one onely speciall, you deny the whole generall in his moste ample and largest vniuersalitie: but not as hée is indefinite. But if you deny euery speciall, then the generall is taken away, howsoeuer you meane it.

Whatsoeuer agreeth with the specials, agreeth also with the generall: if so bée that the thing applyed bée common, and not peculierly proper to one speciall alone, as apud Tribalos patrem immolare est laudabile, ergo ἁπλῶς. *Hottoman.*

Quod vni speciei non conuenit, non continuò generi indefinito non conuenit, vt, si homo est animal, quod non est animal id non est homo: sed non, siquid non sit homo, id continuò sequitur, non esse animal. Nam etsi contrariorum contraria sunt consequentia, tamen differentiæ causa hic est in negatione posita, quæ cum priuatio sit; affirmatione, quæ habitus est, semper est deterior neq; parē cum illa vim habet.

Species eiusdem generis sunt simul natura: est tamen aliqua differentia ordinis, vt in arte speciem hanc illi preponas.

The Grecians call the moste speciall, ἄτομον, Indiuiduum, quod diuidi in partes corporatas sine interitu non potest. Nam

si totum in partes distribuitur, nulla pars erit totum, neq; totius nomine appellari poterit. Where haue I euer any Logician before Ramus that durst absolutely pronounce an Individuū, as Socrates, to bee a speciall, or a man to bee a generall: yet I could neuer see either good reason, or reasonable experience to the contrary. Neq; enim audiendum est quod dici videtur à Porphyrio, & nonnullis preterea in *Aristotelea* bibliotheca locis, indiuidua non differre forma essentiali, sed proprietate accidentiū, vt mas, & fœmina: quæ accidentia in *Hermaphrodito* miscentur. Nam tum detractis (quod omnino saltem cogitatione fieri potest) accidentibus, omnes homines essent vnicus & singularis homo: imò neq; deus, neq; dæmon, neq; homo, neq; vlla prorsus essentia esset (quod est ab *Aristotele* nominatim improbatum, cum idealem hominem eiusmodi derideat) sed accidentia sola. *Talæus.*

Hottoman. Plato ea demùm esse verè ac propriè dicebat, quæ à sensibus remota, tantùm ratione & animo percipe-rentur, propterea quod semper vniusmodi essent, neq; ortū neq; interitum haberent: cum indiuidua infinita, fluxa, & caduca essent, orirenturq; & occiderent, nec diutiùs vno & eodem statu essent. *Aristoteles* verò nullas putabat esse extrinsecus substantias, sed intellectam plurimorum inter se differentium similitudinem, vel genus, vel speciem appellabat. Primus *Aristoteles*, ait *Cicero*, species labefactauit, quas mirificè *Plato* fuerat amplexatus, vt in ijs diuinum quiddam esse diceret. Ac de vtrisq; istiusmodi substantijs idem *Cicero* in lib. de vniuersitate ex *Platonis Timæo* ita scribit.

Quid est quod semper sit (hęc idæa est) neq; vllum habet ortum. Et quod gignatur (hoc indiuiduum est) nec vnquam sit. Quorum alterum intelligentia & ratione comprehenditur, quod vnum semper atq; idem est: alterum quod affert opinionem per sensus, rationis expers, quod totum opinabile est, id gignitur & interit, nec vnquàm esse verè potest?

Vtrius igitur illorum probabilior sententia videtur? Non est humilitatis nostræ tantam inter summos omnium philosophos controuersiam disceptare. Magis tamen aliquantò ad notionum nostrarū rationem accommodata *Platonis* sententia videtur: quippè cum satis constet, non omnes notiones ex ob-

lata

lata extrinsecus indiuiduorum corporum impulsione existere, sed quasdam per se constare; neq; vel aliundè originem habere, vel alio quàm suo ac proprio fundamento niti. Quo in genere sunt intellectæ res omnes, vt quantitates & qualitates, veluti longitudo, latitudo, & altitudo. Item iustitia, temperantia, eloquentia: Item morbus, valetudo, imbecillitas: quæ si in subiecto aliquo insunt, per se tamen, & tanquam auulsæ & abstractæ considerantur. Infra.

Videsnè quam sutores & calceolarij formam calceorum appellant? Nimirùm lignum oblongum, calcei instar, proportione aptum, atq; incisum. At ijdem formam calcei aliam in mente atq; intelligentia impressam atq; insignitam habent: quæ vna verè proprieq;, tum Idea, tum forma, & est, & dici debet. Ad quam, tanquam pictores ad exemplar, suam picturam; ità illi opus suum dirigunt. Forma igitur calcei lignea subiectum est: species in mente insita, auulsa atq; abstracta est.

In an other place more plainly.

Iubent enim (s. *Plato* & *Aristoteles*) poni Calliam procul ad nos longo interuallo venientem. Ea species extrinsecus oblata sensibus continuò generis vniuersi notitiam in animo informat. Primùm enim corpus esse intelligimus, mox, vbi propiùs accessit, animal: tùm hominem: ad extremum, Calliam. Sic, qui in statione sunt, & procul aliquem venientem intuentur, primum corpus esse animaduertunt; secundò, ex cursu animal esse iudicant: tertiò, equitem: quartò, ex colore, amicum vel hostem: postremò, Titium, vel Sempronium. Atq; hi sunt nimirùm notionum & intelligentiarum gradus.

So much I haue borrowed of Hottoman, **concerning generall** Idæas: **too little for** Quidditaries: **enough for our purpose. Hée that desireth more shalbe sure to finde too much, if hée doe but once shew himselfe willing to entertaine those euerlasting prates** de vniuersalibus.

Morrell **in July, to enforce the generall commendation of his, bringeth in speciall examples, as saint** Michaels mount, **S.** Brigets Bower, Mount Oliuet, Parnassus, Ida: &c.

Before I goe further, it were expedient to yéeld some reason why I seuer the generall, speciall, whole and parte from the tractate of diuision, where Ramus **placed them. For**

Genus sayth Taleus, significat causam speciei, & species ideò significat effectum generis. ita q; originem suam è primis argumentis ostendunt, quotiesq; genus explicatur à speciebus causa arguitur ex effectis; quoties contra species arguitur è genere, effectus arguitur è causis. Alia tamen est hîc inuentionis via, quàm illic. Causa enim & effecta subtilius illic explicantur, hic comprehenduntur. **Which yet can hardly make mé beléeue that they bée argumentes made of the first, as they should bée, if they were secondary argumentes: For I call that secondary which is made of some originall, as diuision and definition is. For as for Coniugates and notation although I giue them leaue for a time to soiourne among the annotations, yet I dare not admit them into the text.**

[The generall] hęc definitio generis & speciei aduersas superioris & huius topici differentias ostendit: illic integrum sumit essentiam è membris: hîc genus essentiam speciebus tribuit: illic membra constituunt totum, hîc species constituuntur à genere.

Theloall. Et sunt quædam breuia formata super certis casibus de cursu, & de communi consilio totius regni concessa & approbata, quæ quidem nullatenus mutari possunt absq; consensu & voluntate eorum: **il intende original briefs.** Sunt etiam breuia ex ijs sequentia, dicuntur Iudicialia, & sæpius variantur secundū varietatem placitorum &c. hæc ex *Bracton*.

Done est vne nosme generall pluis que n'est feofment. Car done est generall a touts choses moebles et nyent moebles, et feffment est riens forsq; de soyle. Britton 87. a.

Generale crimen falsi plura sub se continet crimina specialia, quemadmodum de falsis chartis, de falsis mensuris, de falsa moneta &c. *Glanuil.*

Essoniū est { de malo veniendi { vltra mare { de seruitio regis. / terra sancta. / citra mare / malo lecti *Bracton*. 339.

21. H. 7. 16. Frowike. **Si ieo voyle prescriber, que ieo et touts ceux &c. ont vse de temps &c. a distreyner touts les tenantes a terme de vie, ou d'ans del manor de D. pur vn harroit**

roit apres le mort de chescun tenant &c. ceo est bon prescription: car il est in le generalitie; issintq; comentq; vn ou deux, ou trois des tenures soyent determines, vncore auters poyent demurrer, issint la poet il estre vn contynuance de les tenants, comentq; diuers morreront &c.

In 4.H.6.30. There is an argument vsed from the denial of all the specials to take away the generall. Recordare, le def. fist conusance come bayly A.B. file et heire P. le pl. dit, que A.B. est bastard &c. et sur ceo le def. pria ayd de A.B. et per Bab et Cott: il auera ayd: mes contra per Strang et Martin. car par luy, il doyt auer pria l'ayde in le conclusion de son conusance: et in ple personell home auera ayd puis plée plede et nemy deuant; mes in ple reall home auera ayd deuant ple pleade. Et n'ad mes deux maners de entries de ayd: l'un est de ayd deuant ple pleade, s. q̄ defendens vel tenens petit auxilium de A. sine quo ipse non potest respondere, et si soit puis ple plede, le entry est, quod def. petit auxilium de B. ad manutenendum exitum. Et in cest case il ne poet estre ad manutenendum exitum, car nul issue est ioyne: et il ne poet estre, sine quo non potest respondere, car il ad responde al action, et in le conclusion del ceo ne ad pric ayde et ideo il est passa l'aduātage del ceo et ne sont plusors entries del ayd, mes ceux deux.

Elenchs of the whole.

A double Elench lurketh in this place, one of composition an other of diuision: for composition thus. Humfrey Crowther is a good fidler, therefore hée is good: and this fallacian is from the whole, because those two thinges so ioyned togither séeme to make vp the whole, whereupon afterward the part may bée concluded, as though in this example, Humfrey Crowther were a whole integrall thing, made and consisting of these two partes, goodnesse and fidlery. Some other call this à dicto secundum quid, ad dictum simpliciter, when wée apply that absolutely and generally which was spoken but in part and in respect, as héere Humfrey is called good, not generally, for his good conditions, but particulerly in respect of his gitterne. Issint in 9.H.7.19.a. Cestuy que est heyre al pere et mere, est heyre al pere, mes l'issue del baron et sa

second feme donées in speciall tayle, est heyre al pere et mere, ergo il est heyre generallment al pere et simpliciter, non sequitur. car le pere poet auer fits per le primer feme. Vauisor. expone Maiorem & apparebit fallacia, Cestuy que est heyre al pere et mere coniunctim, est heyre al pere diuisim; ore ceo est false. Vide. L.5.E.4.43. Leas fuit fait per abbe et couent, ergo per abbe sole, nul reason. q. an serra intende mesme le leas.

Now on the other side, Diuision is a fallacian, as it were from the partes, when thinges are seuerally propounded and ioyntly concluded, as

Antony Now-Now is good, and a singer, therefore
Antony Now-Now, is a good singer.

For indéede these two thinges seuerally put downe are not essentiall partes of Antony Now-Now, but onely accidentall qualities: whereas if they had béene his essentiall partes the argument would haue followed, as here

A man is a liuing and sensible creature, and also reasonable, therefore
A man is a reasonable liuing creature.

And so in composition, thus,

A man is a sensible creature endued with reason, therefore
A man is sensible; or therefore A man is reasonable.

Elenchs of the part.

First when you inferre the whole, some of the partes wanting. Isabell Greenesleeues hath a fayre hand, a good leg, a quick eye, therefore shée is a proper fayre woman: it followeth not, for shée is splayfooted, crookbacked: tunnebellied, sawtoothed &c. The like is that of Catullus.

Quintia formosa est multis, mihi candida, longa,
recta est: hæc ego sic singula confiteor.
Totum illud, Formosa, nego. Nam nulla venustas,
nulla in tam magno corpore mica salis.

So elswhere of Formianus his trull.

Salue nec minimo puella naso,
Nec bello pede, nec nigris ocellis,
Nec longis digitis, nec ore sicco,
Nec sanè nimis elegante lingua,

Decoctoris

Decoctoris amica Formiani:
Ten' prouincia narrat esse bellam?
Tecum *Lesbia* nostra comparatur?
O sęclum insipiens & infacetum.

Vide 44. E. 3. 13. a. b. Vbi Wickingham & Persay disputant, vtrum le playnt d'un molyn in assise abatera, eoque fuit troue, que parcell del molyn fuit sur auter terre, issint il n'auoit entier molyn. Et sic come vn sophister petit plus quã oportuit.

Home esteant seisie en fée de certeine terres in vn ville, et in deux hamlets del mesme le ville, deuisa touts ses terres esteants in le ville, et in vne de les hamlettes per noisme et deux; riens del terre in l'auter hamlet passera: car son entent appere per l'expressing d'un des hamlets. Mes Browne ex rigore Logices fuit è contra, per vn argument à toto, car le ville conteigne les hamlets, Ergo &c. mes le ley fauour deuises, quia sont faits quant homes gisont in extremis, sans reason ou erudite counsell pur le pluis part, 9. Eliz. 27. Dyer. Mes certes auterment, le deuisor plaide but the sophister. Come in trespas vers I. del parish del Aluale in com. S. yeoman; le def. dõ. iudgement del briefe, car in le parishe del Aluale est vn ville appelle Wilton, et le def. iour del briefe purchase fuit demurrant en Wilton, sans ceo que il demurra in le parish del Aluale; cest, sans ceo, est repugnant al matter deuant; car s'il demurra in le ville, et le ville est in le parish, donq; il demurra in le parish, L. 5. E. 4. 20. a. Issint in l'auter case, il dona touts ses terres in le ville, et ambideux les hamlets sont in le ville, Ergò il dona touts ses terres què sont in les hamlets.

Secondly, this place is abused, when the whole is diuided into such partes as bée not his owne: as when Rhetorike is diuided into Inuention, Disposition, &c. For both these bée the parts of Logike, not of Rhetorike, as they are commonly taken: but of Elenchs in diuision more in the tractate of Diuision.

Elenchs of Generall and Speciall.

If a man, when hée knoweth one or two specials, thinketh that hée knoweth the generall; hée is much deceyued:

but more, if when hée hath gotten a generall notion of any Art, hée thinketh himselfe a sufficient artificer. For if is one thing to haue a generall and superficiall sight in an arte, but another matter, to bée able to practise those general precepts in euery particularitie.

In 26. H. 8. 6. a. Shelley abuseth this argument: Si ieo ay le manor de grand Dirtleby, ieo ay le manor del Dirtleby. Et le case fuit, que fine fuit leuy del manor de D. et in mesme le county fueront deux D, grand et petite, et null sans addition, hîc Shelley dit, que passa per le fine pur le reason auãt dit: mes Fitz. denia ceo, car ne fuit aicun tiel manor, mes per feffment le manor intendus passeroit per le liuery. Shelley fuit deceaue in ceo que il prist grand D et petit D, d'estre specials, et D, sans addition d'estre le generall: et issint reuera, si ieo ay grand D, ieo ay D, come, ceo que est, homo est animal: mes in veritie, grand D et petite D, sont indiuidua, s. singuler lieues conues per tiels nosmes sans aicun general chose que conteigne ambideux.

Issint 7. H. 6. 39. Hals arguit eodem modo, Vous ne dedits, mes que il y ad D maior, & D minor deins le county, Ergò il yad D, argumentum ab inferiore ad suum superius, issint est proue, que il yad tiel ville. But by his fauour it followeth not, because there is vpper Dale and nether Dale, therfore there must be a third Dale, without addition at all, that is neyther vpper Dale nor neather Dale, but distinct from them both. For, if in one county there bée two manors, the one called grand Higham, the other petite Higham, the true generall to these two singular manors, is, this word, Manor; and so it will follow well. If. hath the manor of grand Higham, Ergò If. hath a manor: but the manor of Higham is no such generall as should include the manors of grand Higham and petite Higham. Vide L. 5. E. 4. 47. Mesme le error, que Combe conteigne longe Combe et short Combe.

The seuenth Chapter.

Of the Subiect.

THus muche shall suffise for the argument fully agreeable: now it followeth to speake of that which is agreeable but in part and after a certeine maner, as is the subiect and the adiunct.

The subiect is that wherevnto some thing is adioyned. The subiect receiueth the adiunct, eyther in it, as the minde learning, the place the thing placed: or to it: & this is either affected by the thing adioyned, as the body receiueth garments to it, and is of them affected: or els it doth affect the thing adioyned, as a sicke man receyueth vnto him the physitian, and doth affect him, by occupying and busying his heade and minde in inuenting remedies for him.

Thenot in February.

You thinken to be Lords of the yeare,
But oft when you count you freed from feare,
Comes the breame winter with chamfred-browes,
Full of wrinckles and frosty furrowes.

Where the browes be the subiect of wrinckles and furrows.

In Aprill, Hobbinoll beginneth his song, in prayse of Elysa, with the subiect of the place, in these verses.

Yee daintie nimphes that in this blessed brooke
doe bathe your brest:
Forsake your watry bowres, and hither looke
at my request.
And eke you Virgins that on *Parnasse* dwell,
Whence floweth *Helicon* the learned well.
Helpe me to blaze
Her worthy prayse.
Which in her sex doth all excell.

Where the Brooke is the subiect to their bodies, and Parnassus Mount, to the Well, Hellicon.

In Aprill by Hobbinoll, Elysa is described by her garmentes and place.

See where she sits vpon the grassy greene
ô seemely sight,
Yclad in skarlet a mayden queene
and Ermynes white.
Vpon her head a cremosin coronet,
With damaske Roses and Daffadyllies set,
Bayleaues betweene
And Primeroses greene
Embellishe the sweete Violet.

Where Elysa is the subiect to these particulers, and the grassy græne the subiect to Elysa.

Maister Plowden: Fol. 217. b. Et enfancy, que est grand disabilitie, est repugnant all estate del roy; et coment que enfancy est in le naturall corps, vncore quant le corps politike del roy est conioyne a ceo, et vn corps fayt de eux ambideux, tout le corps auera les properties, qualities, et degrées del corps politique, que est le greinder et le pluis digne, en que il nad my, ne poet estre, ascun enfancy.

Fol. 237. a. Le roy auoyt en luy troys choses, s. poyar, Justice, et Mercy, poyar a faire, Justice a enforcer luy de faire: et Mercy a stayer luy de faire.

Fol. 500. b. Et quant al quart point, si vsurpation poet este eu sur person en personæ, touts les Justices agréont en vn que il ne poet, eo que leglise ad incumbent, et est pleine. Car cesty a que le appropriation est fait, est incumbent, et cy perfect, sicome auter incumbent serroyt, que vient eins per presentment, institution, et induction. Et adonques ne poyent esse deux encumbents d'un mesme eglise a vne mesme temps. Car destre incumbent est l'office d'un corps, et si vn incumbent est, et auter est present, admitte, institute, et induct, tout ceo est voide, sicome vne est officer dune office pur vie, come seneschall del manner, ou tiels: patent fait a auter de mesme l'office presentment, est voyde, et le primer person auera action de trespas vers cesty que est darreynement admitte; et illint person en personæ auera action de trespas vers vn auter que est present, institute, et induct al eglise appropre a luy, sil intromitte oue le glebe et dismes.

Fol. 280. a. Si home dist morust intestate le propertie de

ses

ſes biens vient per le comen ley, al ordinary, entant que le mort nauoit appoint eur a aſcun. Car ſicome franckte-nement per le courſe del comen ley ſerra en aſcun, et ne ſerra en ſuſpence, iſſint per le comen ley, le propertie del biens ſerra en aſcun, et ne ſerra en ſuſpence. Et quant home ad propertie en biens, le property ne poet eſtre pluis longe-ment que il viue, et apres ſa mort les biens ſont a vn auter. come le auncient verſe eſt, da tua dum tua ſunt, quia poſt mortem tua non ſunt: adonques entant que ne point eſtre ſoiens apres ſa mort, et il nad appoint eur a aſcun auter, mes ad relinque eur al monde, le ley done le propertie de eur al ordinary, et a luy (pur ceo que auoyt cure de ſa alme en ſa vie) le ley done les biens a diſpoſer apres ſa mort.

Lieu. Fol. 149. b. Et iſſint religious perſons ſerront entende touts foits a demurrer a lour meaſon, et ne poyent eſtre entende deſtre ailours.

Fol. 37. b. Et en ceo realme ſont diuers autorities, et nul poet exceder ſes limits et bounds, et pur ceo ſi le marſhall teigne plee de choſe fait hors del vierge, ou le Admi-de choſe fait en corps le countie, ceo ſerra voide, car le Admi-tie ſextend al lieu certeine, et deins certeine precinct, et nemy aylours. Et ſi ceſty que priſt ſanctuary, va hors, cheſcun poet luy prender car il neſt priuiledge de hors, et iſſint touts foits le precinct del libertie ne poet eſtre excede, et icy le vicounte nad a faire forſq, en Loundres, et donques quant le priſoner vient hors del libertie del Loundres, a meſme ceſty inſtant il eſt diſcharge.

Fol. 396. a. Mes icy, ſyr Thomas White et les compagni-ons ne fueront iuſtices auterment ne as auters caſes, que a ceux, queux le commiſſion le roy aſſigne. et ſils ſont aſſigne a faire vne choſe, et ils font auter, ceſt auter eſt ſans autori-tie. Come ſi vn eſt eſlie arbitrator a faire arbiterment ſur vne choſe, et il fait arbiterment ſur auter choſe, tiel arbiter-ment eſt voyd tout neſt. Iſſint icy, ceo que ſir Thomas White et ſes compagnions fieront fuit coram non iudice, et mere-ment voyde.

Fol. 15. a. b. Et pur ceo ceo entende ceo come vn princi-ple, quant il eſt agree perenter aſcuns que vn principall choſe

ſerra fait ou ewe, et deuant que ceo poet eſſe fait ou ewe, il yad vn auter choſe primes deſſe fait, et n'eſt certeinement agreé, que faire le dit auter choſe, que le ley appoynt ceſty que ad le pluis ſcience et ſkyll, a faire le dit auter choſe, come le brazier a weyer et mettre en few les bells, le taylour a ſhaper vn toge, le collector a weyer choſe pur que le ſubſidie ſerra paye al roy.

Vide Fol. 320.b. Le proper ſubiect del courts le roy, come Eſchequer, common bancke, Banck le roy, en l'information pur mynes, l'analyſis du quel eſt annexe al fine de ceſt lyuer.

Annotations.

A [Subiect:] Not onely, οὐσία, or ὑπόστασις, an eſſence, or ſubſtance, as the common Logicians vſually take it, but alſo whatſoeuer can bée imagined or fayned to haue any thing adioyned vnto it, in it, or about it: ſo one quality may bée the ſubiect to another, as in this axiome, Vertue is commendable, where commendation is adioyned to vertue, be-
[illegible]the ſubiect thereof.

That ſubiect wherein the adiunct is exerciſed and (as it were) vſed, is called an obiect, or matter ſubiect, as colours bée the obiect of ſéeing, ſounds of hearing, ſouldiers bée buſied in fighting, plowmen in plowing, &c. as in thoſe verſes, &c.

Nauita de ventis, de tauris narrat arator,
Enumerat miles vulnera, paſtor oues.

Which béeing turned, tutch thoſe that intermedle with matters of other mens profeſſions.

Nauita de tauris, de ventis narrat arator,
Enumerat paſtor vulnera, miles oues.

The verſes bée made by Propertius, and by Ronſard tranſlated into French, thus,

Des vents parle le marinier,
Le labourer de ſes toreaux,
Ses playes compte le guerrier,
Et leurs brebis les paſtoreaux.

Claudian hath the like.

Omnia quæ ſenſu voluuntur vota diurno,
Pectore ſopito reddit amica quies.

Venator

Venator defessa thoro cum membra reponit,
Mens tamen ad syluas & sua lustra reddit.
Furto gaudet amans, permutat nauita merces,
Et vigil elapsas quærit auarus opes.
Iudicibus lites, aurigæ somnia currus.
Vanaq; sollicitis meta cauetur equis.
Me quoq; Musarum studium sub nocte silenti
Artibus assuetis sollicitare solet.

Canons.

If the subiect bée, then by nature, the proper adiuncts must also bée: the other that bée not proper, may bée, and may not bée.

If the subiect bée taken away, the adiunct cannot stand.

To whom you giue the subiect, to the same you giue the adiunct.

Whatsoeuer you attribute to the subiect, that you must giue the adiunct: but in due and conuenient order.

Of the subiect things bée sometimes praised and dispraysed. The house is estéemed by him that dwelleth in the house. The place giueth occasion to iudge of that which was borne in the place, as, He was borne in Bœotia, therefore hée is but a muddy-pated asse.

Explications, illustrations, amplifications, and extenuations are fet from this place: So Cicero to his sonne, Thou art at Athens, therefore thou shouldest bée learned. Tis a Northerne Nagge, therefore quicke, Tis a Shrewsbury fryse, therefore the best.

From hence are almost all poeticall epithetes deducted.

As the subiect is, such is the adiunct. The place oftentimes augmenteth the crime. Locus est entis & non entis, corporum, dæmonum, &c. sic domus somni, hortus Hesperidum in loco collocantur.

2. H. 4. 19. Per touts les Justices, que les Justices de peace ne poyent prender appel de nul approuer, ne de auter. Car lour commission n'extend cy auant.

9. H. 6. 5. In pleading d'arbitrement, le partie doyt monstrer le lieu ou le submission fuit fait, et les noimes des arbitrours.

Maister Crompton, Folio. 79. &c. &c. Les Justices de peace enquirera ad chescun le lour generall sessions, de ceux que parlont irreuerentment de sacrament de corps et sanke nostre seigniour Jesu Christe. 1. E. 6. cap. 1. & 1. E. cap. 1.

Item de reteyners, liueries, maynteiners, imbracers, bowstaues, archers, illoyall games, forestallers, regrators, vitailers et Inholders, et de chescun de eux, per, 33. H. 8. cap. 10. & 37. H. 8. cap. 7.

Item de cestuy que tue weinlinges que sont dessus l'age de deux ans, al intent de vender. contr. 24. H. 8. cap. 9. & 14. El. cap. 11. Et illint de pluisors autres.

Pur le subiect del lieu, Vide L. 5. E. 4. 7. 8. En annuitie vers le Prior de S. Mary Oueres in Southwarke, in le county de Surrey, le pl. count sur fait a Londres in le parish de S. Dunstane, in le garde de Faringdone, et le fait est dated, in domo capitulari eiusdem domus. Per Choke, ceo ne poet estre per comen entendement, que le Chapter del S. Mary Oueres in Southwark que est in Surrey ferra le fait in Fleet-streete in Londres &c. mes per speciall matter monstre il poet, car vbi personæ, ibi Capitulum: Mes si le date esset, in monasterio domus prædictæ, ceo per null intendement serra prise alibi, que in Southwarke ou le meason est, car le material meason n'est remouable, come le Chapter est.

Accessorium sequitur suum principale, hinc versus

Quicquid plantatur, seritur, vel inædificatur,
Omne solo cædit, radices si tamen egit.

Sublato principali, tollitur accessorium. Nam, non entis non sunt qualitates. Jeo enditera vn home pur aspoyter ieunes pigeons hors de mon Colymbier, ou iennes goshauks engendres en ma parke, car le propertie est in moy et ieo poy eux prendre a mon pleasure, car ils ne poyent aler dehors. Contrà del auncient haukes ou pigeons que poyent fuer. Sic ieo enditera pur prisel des pikes ou tenches hors d'un ponde ou troncke, causa qua suprâ, contrà sils soyent prises en le ryuer, eoq; a ore ieo ay null propertie in eux, 18. E. 4. 8.

Elenchs.

The Lawe abhorreth such thinges as are done without authoritie

or commission, coram non iudice. So 10. H. 4. 2. Præmunire facias issist de ceo que le def. auer sue al court de Rome de chose dont conusance apertient al court le roy. See the booke called, Diuersities des courtes et lour Jurisdictions, wherein the matter subiect of the Marshalsea, Kings bench, Common place, Chauncery, Eschequer, Cinque portes, &c. is distinctly put downe. For the authoritie of courts is limited, neyther is it lawfull to intrude sophistically, or iniuriously incroache one vppon another. Vide 3. 4. P. & M. 14. Dyer. Fuit enact, que les quarter sessiõs de Anglesey serront tenues in Beaumaris: et les Justices de peace teigne eur ad Newburghe, et la preigne inditements de felony: ceux inditments sueront voyde, et coram non iudice. Vide 22. E. 4. 33. a. b. Commission est direct as certeine homes de oyer tantum, et ils oyont et determinont, cest coram non iudice: Sic s'ils oyont matters hors del compas del commission. Sic si in common bancke vn appele de mort ou robbery soyt port, &c. et le party est attaint, cest coram non judice, car lour patent ns dona al eux cest poyar et autoritie.

The eight Chapter.

Of the Adiunct.

AN adiunct is that whervnto something is subiect.

An adiunct is eyther Inherent in the subiect, or adherent to it.

The adherent adiunct doth eyther affect the subiect: or is affected by it. So vertues, vices, learning, and all such qualities are adiuncts to mans minde.

And as euery place is the subiect of the thing placed: so, time, that is to say, the continuance of euery thing, is the adiunct of those thinges which do continue in time.

So all qualities which eyther bee proper, as laughing to a man: or common, as whitenesse to a stone, and a wall are truely called adiuncts.

Finally euery thing which agreeth vnto an other, being neyther the cause, nor the effect thereof, is an adiunct of the

thing wherevnto it doth agrée.

Colyn Clowt in January ſayth.

All as the ſheepe, ſuch was the ſhepheardes looke,
For pale and wanne hee was, alas the while.
May ſeeme he lou'd, or els ſome care hee tooke, &c.

Thenot in February of himſelfe,

Selfe haue I worne out thriſe thrittie yeares,
Some in much ioy, many in many teares:

Where the thriſe thritty yeares, bée an adiunct.

In March Thomalin argueth the ſpring to bée at hand, by theſe adiunctes.

The graſſe now gins to bee refreſht,
The ſwallow peepes out of her neſt,
And clowdy *Welkin* cleareth.

In July Thomalin deſcribeth Abell by his adiuncts compared.

As meeke hee was as meeke mought bee,
Simple, as ſimple ſheepe:
Humble, and like in eche degree
The flocke which hee did keepe.

And in the ſame diſcourſe diſplaying the demeanour of oure ſhepheardes and their pompe and gorgeous attire.

But now (thanked be God therefore)
the worlde is well amend,
Their weedes bene not ſo nighly wore,
Such ſimpleſſe mought them ſhend.
They bene yclad in Purple and Pale
So hath their God them bliſt.
They reigne and rulen ouer all,
And Lord it as their liſt
Ygyrt with belts of glitter and gold, &c.

In Auguſt Perigot deſcribeth his boũcing Bellibone by hir attire.

I ſaw the bouncing *Bellibone*
hey ho *Bonnibell*
Tripping ouer the Dale alone,
Shee can trip it very well.
Well decked in a frock of gray,

Hey ho, gray is greete.
And in a kirtle of greene say
The greene is for maydens meete.
A chapelet on her head she wore
Hey ho chapelet:
Of sweete violets therein was store,
Shee sweeter then the Violet.

In November Colyn vseth this argument very oft in declaration manner, where hée bewayleth Didoes death, as

Coloured chapelets.
Knotted Rusheringes.
Gilt Rosemary.
Mantled Meadowes &c.

Thomalin in Iuly.

The hils where dwelled holy saintes
I reuerence and adore,
Not for themselues, but for the saincte,
Which haue bee dead of yore.

By consideration of all these agréeable argumentes, thinges that differ one from an other, are called one, the same, or agréeable. 43.a.

So before, Colyn in January, was sayd to haue the same loke that his shéepe had,

All as the sheepe such was the shepheardes looke,
For pale and wanne he was, alas the while &c.

Meaning one in adiunct, not in essence. And so in like maner of the rest of the agréeable argumentes wée may say.

Fol. 357.a. Et quant al ceo, ils disoient que fines oūt estre de tresgrand antiquitie al comen ley. Car ils ount este si longement come ascun court de record ad estre. Et ils fueront per le comen ley assurance pluis fort, et de plus grande force et puissance. Et issint sont terme per lestatute de modo leuandi fines, &c.

Fol. 413. b. Le deuisour serra accoumpt inops consilij, pur ceo que voluntes de pluis souent sont faites quant homes sont gisant en extremes et faudront councell. Et pur ceo le ley enterpretera les parols, et directera sa operation accordant al entent del partie.

Fol. 101. b. Et donques icy, quant il fuit arraigne pur le tuer del home sur malice prepense, le substance del matter fuit, s'il luy tue ou nemy, et le malice prepense n'est que del forme ou circumstance de tuer. Et coment que le malice prepense fait le act plus odious, et pur ceo cause l'offendour de perder diuers aduantages que auterment il auerait, come sanctuary et clergy, et tiels semblables, vncore il n'est auter que le manner del fait, et nemy le substance del fait. Car le substance del fait est le tuer de luy: et adonques quant le substance del fait et le manner del fait sont mise en issue ensemblement, si les iurors troueront le substance, et nemy le manner, vncore iudgement serra done sur le substance. Come si home arraigne assise pur disseisin oue force, et le defendant plede al generall issue, et les iurors troueront le disseisin, mes nemy oue force, vncore le pleintife auera son iudgement: car le torcious expulsion fuit le substance, et le force, le manner. Et adonques quant le substance est troue, il auera iudgement pur ceo, et serra acquite del force, &c.

Fol. 381. Et quant al auter point, il dit que coment que le rent charge est nouel rent commenceant per graunt, vncore il est issint appropre al office que il ne serra seuere del office cy longement come le office continue: issint que si le office ne serra forfeite, le rent que est annexe al ceo ne serra forfeite. Car si vn grant estouers a vn autre d'estre arse en tiel meason, il est appurtenant al meason. Et issint comen graunt en tiel lieu a vn pur ses auers leuant et couchant en son ferme de Dale, le commen est fait appurtenant a ceo, issint que il que ad le meason per quecunq; title que il vient a ceo apres, auera les estouers: et il que apres viendra al ferme, auera le comen: et les estouers ne poient estre seuere del meason, ne le comen del ferme, si non per extientisment. Car s'il que ad le meason voile graunter les estouers a vn auter reseruant a luy le meason, ou le meason a vn auter, reseruant a luy les estouers: les estouers ne serront seperate del meason per ceo, pur ceo que serront expende en mesme le meason. Et issint le fee icy est graunt pur le exercise del office, et l'office fuit receiue en respect del fee, & sic officium & foedum sunt concomitantia, et l'un ensue l'auter et le fee con-

tinua

tinua oue l'office come incident inseperable: & quæ sequuntur in eodem loco, del annuitie graunt pro consilio impendendo; de office del roy de Haroldes, graunt a Garter, cum fœdis & proficuis ab antiquo &c. 5. E. 4. Fol. vltimo. Et del graunt de x. li. à Garter ad terminum vitæ suæ ratione & causa officij. 7. E. 4. Fol. 23. et del annuitie graunt per le roy, Iohanni clerico coronæ, ad terminum vitæ suæ; en queux cases, le fœ est annexe al office, et est determinable oue l'office.

Fol. 26. b. Si vn reteigne vn auter a seruer pur an pur le salary de xx.s. la si le seruant demand les xx.s. il doit monstrer que le temps est passe, cest assauoir, l'an expire, et doit ceo pleder certeine, pur ceo que son action est done en respect del an passe, et del chose fait en temps, et le temps est parcell del cause del demaunde, et precede le demaunde.

Annotations.

ADiunct:] The same almost which the Græcians call περιστασια, and περίστασις, circumstances, if you take that word largely for whatsoeuer is added to a thing after it is once framed and made of his essentiall causes, and some of them procéede from the vniting and coniunction of the forme and matter immediately, which are commonly inseparable, as laughing to a man &c. Some are but hangbyes and remouable, or separable, and, as it were, tenants at wil, as white, blacke to the wall, &c.

Adiuncts therefore, not Accidents are they heere called: for Accidens is of it selfe, infinite and vndeterminate, and doth properly apperteine to the accidentall cause, which we before tearmed chaunce, hap, or hazard: and it conteyneth effectes, adiunctes and comparates; so that the name béeing neyther fitte, nor applyable to this place, I haue displaced it purposely.

[One and the same:] Héere is Logically put downe all that, which others peruersly teach in their diuers sortes of Idemtitie. as, Genere, Specie, Numero.

Some there bée that giue a proper and peculiar place to signes and coniecturall tokens: but friuolously. For they belong all eyther to this of adiuncts, or that other of effectes. or els they bée testimonies and witnesses.

Canons.

If the proper adiunct bée, then the subiect must commonly bée: and if the subiect bée, the proper adiunct must also bée.

To whome soeuer you ascribe the adiunct, to the same you must attribute the effect procéding from the same adiunct.

That which is rightly applied to the inherent adiunct, must bée applied also to the receiuing subiect.

Here are gathered diuers phisiognomicall coniectures, as that of Martiall.

Crine ruber, niger ore, breuis pede, lumine lœsus,
Rem magnam præstas, Zoile, si bonus es.

Hence are also set prayses and dispprayses, deliberations and consultations. Herein are conteined all those Rhetoricall places concerning the giftes and qualities of body and soule, as also externall and those of fortune.

If the adiunct bée occupied or exercised, then the subiect must bée that exerciseth the same.

To whatsoeuer you ascribe the adiunct which is occupied, to the same you must giue the subiect: and what you apply to it, you must also attribute to this.

Sometime the adiunct together with the subiect is taken but for one nely argument, as when I say: The murthering and vsurping Tyrant, Richard the third, was deseruedly slayne: and yet neuertheless here the subiect is argued in some respect by the adiunctes, in that it is thereby described and declared.

Some adiunctes bée antecedent or going before, some againe present and conioyned, lastly some others consequent and following. Therefore some other Logicians haue made these thrée kinds of adiuncts, thrée seuerall kindes of arguments, as Antecedentia, adiuncta, consequentia.

Naturall Philosophers, Phisitians, Astronomers, and other professors vse much this place: as when they dispute of chaunge of weather, diuersitie of causes and occasions of diseases, signes of stormes and tempestes, as, vento rubet aurea Phœbe, when the Moone is red, thée betokeneth wind. These common adiunctes bée called τὰ κοινῶς συμβέβηκοτα, τὰ ὡς ἐπὶ τὸ πολὺ, τὰ μὴ ἀεὶ ἑπόμενα.

10. H. 6. 21. Merchant est bon addition, & eadem lex de wydowe, ou single woman.

Seruant n'est addition, car est trope generall. L. 5. E. 4. 22. Vide 14. E. 4. 7. quel serra le addition d'un feme, que est ne mayde, widow, ne wife.

Vide 31. & 32. H. 8. 5. Dyer. Spynster est addition cy bien al home, come al feme, car per Spylman in Norfolke sont diuers homes qui sont wo2sted spynsters.

Maister Lambard. Iustit. lib. 2. cap. 5. M. Marrow sayth, that fiue p2incipall things bée most commonly requisite in p2esentments befo2e Iustices of peace.

1 The name, surname, and addition of the party indited.

2 The yeare, day, and place, in which the offence was done.

3. The name of the person to whome the offence was done.

4 The name and value of the thing in which the offence was committed.

5 The manner of the facte, and the nature of the offence, as the manner of the treason, murder, felony, o2 trespasse.

Ad: Temp. Maister Lambard. Iust. lib. 2. cap. 19. Touching the continuance of these quarter sessions, I haue shortly but this one thing to say: that almost two hundred yéeres ago, it was o2deined by statute (12. R. 2. cap. 10.) that they should bée continued thrée dayes together, if néede were, vpon paine of punishment. And yet, in these dayes of ours, wherein the affayres of the sessions bée excédingly increased (and consequently more néede to continue them now then before) many do skantly affo2de them thrée whole houres, besides that time which is spent in giuing of the charge.

Maister Crompton. Iust. Fol. 65. hath a number of adiuncts, effects, subiects, &c.

Inprimis couient consider le qualitie del home, lequel, il est semble a faire tiel felonious act, ou nemy.

Item quel chose doyt luy mouer d'attempter tiel enterpr2ise.

Item lequel il fist le murder, sur alcun displeasure deuant conceue, ou sur sodein anger.

Item lequel il erpect per son mozt, d'auer ou receiuer aſcun cõmodity, come terre, office, argent, ou aſcun auter gaine.

Item lequel il eſt vn que ne regard le tuer de home, ou ſil ad ew pardon ou ad eſtre acquite pur tuer de home auant ceſt tẽps, car tiels choſes face homes d'auer luy in ſuſpicion.

Item le pais ou home fuit nee, declare aſcun foits ſon naturall inclination, come ſi l vſt etre nee, ou educatus enter les homes de Tyddeſdale et Ryddeſdale, poet eſtre plutoſt ſuſpect.

Item dequel trade il eſt, et per quel occupation il viue.

Item lequel ſoit gameſter ou haunter de alehouſes, ou vn companion inter ruffians.

Item dequel abilitie il eſt, et coment il auient a ceo que il ad, ſil ad aſcun choſe.

Item quel apparel il vſe, et lequel il ama daller brauement ou nemy.

Item dequel nature il eſt, lequel ſoit haſtie, brady, ou preſt de quarreler.

Item queux ſhyftes il ad de temps en temps, et quel choſe luy moue de fayre tiel haynous act.

Item lequel le home fuit tue in le haut chemyn ou en boys, ou perenter deux hilles, ou lequel prochein vn hedge, ou auter ſecret lieu.

Item lequel fuit en le matyne, ou ſere en le nuite, et lequel fuit view la circa ciel temps.

Item lequel il ſenfua apres l'act commit, ou auera aſcun ſank ſur luy. ou ſil tremble ou ſtaggar, ou ſoit contrary, en diſant de ſon tale, et coment il gard ſon countenaunce.

Item lequel auer eſperance de garder ſon fact ſecretment per reaſon del place, temps, et le maner de ſon ſecret feaſans.

Item dauer teſmoignes examines de ſon eſteant en ceo place, ou en auter place, al temps del act fait.

Item compare le force de murderer oue le weakenes, armor oue le nakednes, ſtoutnes oue le ſimplicity d'auter.

Item ſon confeſſion demeſne, Wilſon Rhet. Fol. 17.

Item ſi ſoit vagarant, & nullam exercens artem, nec laborem, ou ſi certein deſbiens embles fuer in ſon poſſeſſion. 7. E. 4. 10.

Item

Item siquis appellatus fuerit à probatore, & fugerit propter appellum, & mortuo probatore redierit, est suspiciosus per *Bracton.*

Item fama quæ suspicionem inducit, oriri debet apud bonos & graues, non quidem maleuolos & maledicos, sed prouidas & fide dignas personas, non semel, sed sæpius; quia clamor innuit, & defamatio manifestat, & vanæ voces populi non sunt audiendæ. Idem *Bracton.*

Item si ascun soyt imprisone pur suspition de felony, et eschapa, ou fait tout que en luy est, de eschaper, est grand suspition que il est culpable. Stamf. 180.

Item si quis noctu cubauerit in domo solus cum aliquo qui interfectus sit, vel si duo vel plures ibi fuerint, & hutesium nō leuauerint, nec plagam à latronibus vel interfectoribus in defensione facienda acceperint, nec ostendunt quis, de se, vel de alijs hominem interfecerit, his casibus mortem dedicere non possunt. *Bracton.*

Item si quis notum vel ignotum in domum suam acceperit, qui viuus ingredi visus sit, verum postea nunquam nisi mortuus: dominus domus, si tunc domi sit, vel alij de familia qui tunc interfuerunt, pœnam capitalem subibunt, nisi fortè per patriam fuerint liberati. Idem.

Item communis vox & fama est sufficient cause de suspition de felony, sans auter especiall matter alledge. per Curiam. 5. H. 7. 2. H. 7. 6.

Item si home soit robbe, ascuns voile prender le measure de les pées de les robbers, et de les chiuals, et si cesty que est robbe ad suspition d'ascun il voile causer le measure d'estre mis al pée de tiel person, et son chiuall, et sils accorde, il poet estre suspitious.

Item si home appelle auter traitour, et il dit rien a ceo, il est cause le luy arrester pur suspition, et pur ceo couient que il responde a ceo. Fitz. coro. 24. 37. H. 6. per les Justices, issint semble ou home appelle auter thœfe, et il dit rien a cell, &c.

Item Nota, il est vse, ou home est suspect d'auer murdre auter, d'amesner luy al mort corps et sur cel il ad estre view, que le corps ad notelment met hors sanke, videlicet, hath

bled freshly, sicome vst este nouelment tue. Et sur ceo il ad este pris, et condemne, et quant il ale al executiõ, il ad conus le fact.

Adiuncts bée more plentifull, saith Ramus, but subiectes more forcible in arguing, as, hée lokes, ergo hée loues, it followeth not so well, as thus, hée loues, ergo hée lokes. Yet some like not of this note. For, say they, if you consider the subiect and the adiunct Logically, then the one doth equally argue the other, but if phisically, then that is heterogeneum and impertinent.

As the place, so the time may inhaunce or diminishe the value of thinges. So that, as a man may plus petere loco, so may hée also tempore. Qui tardius soluit, minus soluit, sic qui commodori loco. Qui citius petit, plus petit, sic qui loco magis remoto. Nam vt dies est pars obligationis, sic tempus.

11. H. 4. 31. b. Hill. Home prist mon fits bien vestue, luy dispoyle, et dona a luy vn drape, ieo auera le drape quia ieo auera le corps que il couer: sic adulter vest ma feme &c.

A les Justices pertient pur doner iudgment, oyer, recorder, agarder proces &c. a les Clerkes pur escriuer ceo que les Justices agardont, a le vicount pur returner briefs a luy directes &c. 7. H. 6. 30. Hals.

Si action de wast soit ore done generalment vers tenant in tayle apres possibilitie dissue extinct, treble dammages serront recouer vers luy sans plusors parols, car ceux sont adioynts a ceo per le former statute: et quant ceo est done in nouel case, tout que est adioynt a ceo est done one ceo similiter.

Donatio officij del Exigenter de London &c. pertinet ad dispositionem capitalis Iusticiarij pro tempore existentis, vt incidens inseparabile ad personam dicti capitalis Iusticiarij spectans, & hoc ratione præscriptionis & vsus. 1. & 2. Elis. 25. Dyer.

1. H. 4. 6. per Gascoigne, si le roy per parols generals graunta choses a queux auters sont incidents queux ne sont seuerables, les incidents passont. Come sil graunta moy terre cum pertinentijs, a que comon est appendant, le comon passa.

Tyrwit dit, si le roy graunta moy le foundation d'un abbey,

abbey, le corody passa: Issint sil graunta sayze, ieo auera vn court de pipouders incident a ceo.

Vide Parkins page. 24. Des incidents que passont per le graunt des principals: come fealtie est incident al homage et al rent, rent al reuersion, aduouson al manor.

Acquitall est incident al franckalmoigne, Littleton, 32. a. acquitall et garrantie sont incidents al Homage auncestrel, Little. 32. Distresse al rent seruice, 51. Distres al rent reserue sur egalitie del partition, 55. Surueyor al Joynteuancy. 62.

Vide 12. H. 8. 7. 8. 9. Brooke Justice sayth that, le person ad le fœsimple in iure ecclesiæ, whereunto agreeth Elyot. Brudnell, semble que le person ad le fœsimple, car le patron n'ad ascun interest mes solement le presentment. But Pollard will haue it in the Patrome.

Elenchs.

This place, as others, is then abused, when false adiuncts bee applied, or others not orderly applyed.

The ninth Chapter.

Of the diuers or different.

HItherto of argumentes agreeable, now followe the disagreeable.

A disagreeable argument is that which disagreeth from the thing which it doth argue.

The one of these ioyned or compared with the other appeareth more plainely.

Disagreeable argumentes bee eyther diuers or opposite. Diuers or different are disagreeable argumentes which differ onely in respect, and are onely fit for declaration: they are often in authors, and many of them be expressed by these signes, Not this, but that. Although, yet.

Colyn in January, Colyn loude not Hobbinol, but Rosalinde.

Maister Plowden: Fol. 82. a. Car parols, que ne sont auter, que le verberation del ayer, ne sont l'estatute, mes solement

ment le image del statute, et le vie del statute rest en les ments del expositors del parols, quels sont les feasors del statute.

Annotations. Elenches.

ONely in respect:] not indeede, and naturally, in respect of the thinges themselues, which may very well oftentimes concurre in one, but onely in respect of his meaning, that so put them downe. Therefore the vse of diuers argumentes is in distinction, and euident explication, not in confirmation. L. 5. E 4. 7. per Bryan: les walles, timber, couerture, pieres &c. del Chapterhouse, ne serront dits properment le Chapterhouse, mes lou le couent et Chapter sont, la properment est le Chapterhouse. In that saying of Christ, I come not to send peace, but the sword, if wee entend this conclusion, I come to send the sword, therefore not peace, then the argumentes bee repugnant, sayth Wasserleider: but if wee take it as spoken onely for explication and distinction, then they bee vsed as diuers.

Ramus first found, diuersa: Rodolphus Agricola, disparata, which he calleth differentia.

This place is abused, when such thinges bee put downe for diuers, which are not diuers properly.

The tenth Chapter.

Of Opposites.

OPposites are disagreeable argumentes which disagree both in respect, and in matter it selfe, and therefore cannot agree vnto the same thing, according to the same part, respect, or time, as the same man cannot bee hote and colde in the same part of his body, at the same time. So Socrates cannot bee father and sonne to the same man: sicke and whole at the same time: Insomuch that if one of them bee affirmed, the other must bee denyed, and contrarily: but necessarily in the first; contingently in the second.

Opposites

Opposites are eyther Disparates or contraries. Disparates are sundry opposites wherof one is equally and in like manner opposed vnto many.

Hobbinoll in Aprill in his song of Elisa.

Bring here the Pincke and purple Cullambine
with Gelliflowres:
Bring Coronations, and Sops in wine
worne of paramours.
Strow me the ground with Daffadowndillyes,
And Cowslyps, and Kingcups, and loued Lillyes,
The prety Paunce,
And the Cheuisance
Shall match with the faire Flowrede lice.

All which herbes bee equally differing one from another, and are therefore Disparates.

M. Plowden Fol. 170. a.b. Mes vn grosse noisme poet conteigner diuers choses corporall, come Manor, Monastery, Rectory, Castell, Honor, et tiels semblables. Car eux sont choses compound, et poyent conteyner tout ensemble, mes. ages, terres, prées, bois et tiels semblables.

Annotations.

ÆQually:] not as though one Disparate shoulde differ equally from all the other. But equally signifieth vicissim, simul, alike, in like manner, againe, &c. Wasserleider.

Disparo signifieth to seuer, or separate. Of that word commeth Disparata, that is, thinges seuered, or put a sunder one from another.

Canons.

If one Disparate bee equally opposed to many, then certeinly, if one of them bee affirmed, all the rest must be denied. But if one among all bee denied, you cannot straightwayes infer any other what you list, but some one of the same kind of thinges. And therefore, from the first part of the Canon, commeth a necessary axiome, but from the seconde, a contingent. What then if I should thus reason?

If this man bee not a Lawyer, hee is a Diuine.

Or thus, out of Virgill.

If the Spartane mayd bée not a woman, shée is a goddesse. Bée these axiomes false or no? I answere, they bée not altogether false, but contingent. And therefore I said before, that if one of them bée affirmed, the other must bée denyed, and contrarily, that is, if one of them bée denyed, the other must bée affirmed: for, as in this argument, so in many others, the common Logicians very rashly say, it doth not followe, if it do not follow necessarily: Wheras notwithstanding it may follow, although it follow contingently. So then the one affirmed, the other is denyed necessarily: but the one bëing denied, another shall bée affirmed contingently, as I sayde in the text.

Maister Lambard. Iust. lib. 1. cap. 12. Capitall or deadly punishment is done sundry wayes, as by hanging, burning, boyling, or pressing.

Not Capitall is of diuers sortes also, as cutting of the hande or eare, burning or marking the hande or face, boaring through the eare, whipping, imprisoning, stocking, setting on the pillory or cucking-stoole, which in olde time was called the tumbrell, and of olde, but not now, pulling out of the tong for false rumors, cutting off the nose for adultery, taking away the priuy partes for counterfeiting of money.

Pecuniary punishmẽts bée diuers, as issues, fines, amerciaments, and forfeiture of offices, goods, and lands &c.

The Romanes vsed specially eight sorts of chastisements, Damnum, vincula, verbera, talio, ignominia, exilium, seruitus, mors.

Elenchs.

When diuers bée put downe as Disparates. So in Martiall.

Pinxisti venerem, colis, *Artemidore, Mineruam,*
Et miraris opus displicuisse tuum?

For both these things might bée done together by Artemidorus well ynough, and yet his worke displease no man.

The

The eleuenth Chapter.

Of Contraries.

Contraries bée such opposites, whereof eyther one is onely opposite to one, or one to two, but more to the one of them, than to the other. They bée Relatiues or repugnant. Relatiues are contraries, whereof the one is so opposed to the other, as yet there may bée in other respects a mutuall consent and reciprocall relation betwéene them, wherevpon they bée called Relatiues, as father, sonne, husband, wife, &c.

In May Palinode.

So schooled the gate his wanton sonne,
That aunswered his mother, all should be done.

Maister Plowden. Fol. 121. b. Le greinder est in respect del meynder: et issint en ceo que il affirme le conusance del greinder number, il affirme auxi le conusãce del meynder &c.

Repugnant arguments bée such contraries, whereof one is so opposite to one, or at the most to two, as that there can neuer any agréement bée found betwéene them. So Warre is onely opposite to peace: but couetousnes to liberality and prodigalitie, yet more to prodigality. Aduersa

Sheepheard I list none accordance make
With sheepheard that does the right way forsake:
And of the twayne, if choyse were to mee,
Had leuer my foe than my friend to bee.

Colyn in December.

Loue they him called that gaue mee checkmate,
But better mought they haue behot him hate.

Perigot in August.

Ah *Willy*, when the hart is ill assayde,
How can bagpipe, or ioynts be well apayde?

Maister Plowden Fol. 467. a. Et issint il apiert diuersitie, (hée should haue sayde rather Repugnancy) enter les deux equities, car l'un abridge, l'auter enlarge: l'un dymynisha, l'auter amplifie: l'un tolle de le letter, l'auter ad al ceo.

Fol. 274. a. Car hors de memory et hors de conusance, est

tout vn. Et ambideux ces phrases, signifie ignorance del temps: et quant le partie prist conusance del temps, il n'estoit en sa bouche a dire, que il est ignorant de mesme le temps. Car ignorance et science sont contraries repugnant, et d'affirmer contraries, null serra suffer per nostre ley.

privatia. Under Repugnant arguments be conteined Priuatiues, as blindnes is opposed to sight; darkenes to light; death to life.

Piers in May.

For what concord han light and darke sam?

Villen et franck home sont priuatiues. see Plowden 397.a.

And thus much of disagreable argumentes, by which one thing is sayd to bee different from another.

Annotations.

This word, Contrary, betokeneth no distinct and speciall determinate argument, but is a generall affection incident to diuers specials. Therefore in Judgement we should not say, the argument is from the contrary, but from this or that kind of contrary, for all contraries argue not alike. And so in other arguments wee must not sticke in the generalitie, but descend to particulars, as, what cause, what subiect, what adiunct.

Cum res duę ità comparantur, vt ex earum altera affirmata, affirmetur altera, ex altera negata, negetur altera, tum illæ sunt consentaneæ, vt *Aegistus* est otiosus, ergò adulter: Efficiens non habet instrumenta ad ædificandum, ergò non potest ædificare: Causa & efficiens vtrobiq; : Sed cum ex vna affirmata, altera negatur, vel ex vna negata altera affirmatur, tùm sunt dissentaneæ, vt *Sophroniscus* fuit pater *Socratis*, ergò non filius : & *Socrates* fuit *Sophronisci* filius, ergò non pater: hîc causa & effectum sunt, sed considerantur, vt dissentanea: quià ex altero affirmato negatur alterum. Et non est absurdũ, quod vna eademq; res, diuerso respectu, sit & consentanea & dissentanea. Itaq; teneamus Relata. *Piscator.*

Scribonius would haue the nature of Relatiues generally put downe immediately after the generall definition of an argument in the first Chapter. Because, as a father cannot bee somuch

somuch as imagined without a sonne, nor a sonne without a father, so no more can a cause without a thing caused, thing caused without a cause, subiect without adiunct, adiunct without subiect &c.

Sometimes the Relatiues haue both distinct names, as father, sonne, sometimes but one name, as a brother is hée that hath a brother, a disparate is that which hath a disparate.

One Relatiue doth define and expound another. So the cause is defined by the thing caused, and this by that &c.

Relata sunt simul natura, for though Dauid were Dauid before Salomon was borne, yet Dauid was neuer Salomons father, before Salomon was Dauids sonne.

Relata ita contraria sunt, vt non sint sine medio: nam inter patrem & filium, est medius, qui neq; pater, neq; filius est.

I. Guyer fuit endite deuant le Coroner super visum corporis, del mort Emeline Guyer sa feme. Et l'enditement fuit, que le dit Emelyne fuit in pace domini regis, quousq; antedictus I. Guyer, vir præfatæ Emelyne Guyer &c. cest inditement fuit challenge. Car il poet estre intend assets bien per l'enditement, que le feme n'est occise, mes est in vie, et istint repugnant en luy mesme, eoq; le dit I. Guyer est appelle vir prefate Emelyne, ou il serroyt, nuper vir, car vir est correlatiue al feme, et ne poet estre vir nisi in respectu vxoris &c. 31. 32. H. 8. 3. Dyer.

Il ne est possible, que vn person poet estre souereigne et subiect. 4. Elis. 22. Dyer.

That which agréeth with one of the Relatiues, commonly agréeth with the other, as if it bée honest to teach, it is no shame to learne.

Relatiues in our law bée, as, seignior tenant, paramount per auayle, playntife defendant, demandant tenant, garde gardeine, fessor fessée, donor donée, grauntor grauntée, lessor lessée, disseisor disseisée, conuser conusée, baron feme &c.

Repugnants.

If one repugnant argument bée denyed, the other must bée affirmed, if there bée no third thing put betwéene them.

Although Contraries cannot bée applyed vnto the same thing, yet the same thing may be applied vnto contraries.

Priuatiues.

Priuatiues they call those whereof one denieth onely in that subiect whereunto the affirmatiue agréeth by nature. (affirmatiue is that which doth affirme and lay down some thing to bée or imagined to bée) and héere the affirmatiue is called the habite, the negatiue the priuation thereof. A stone therefore cannot bée called blinde, for that it was neuer framed of nature to bée capable of sight, but it may bée called, not séeing.

Crompton: Fol. 29. Home tua auter quant est ebrius, il serra pendus quant est sober.

Priuatiues be, In prison alarg. compos mentis, non sane memorie: aueugle surde, mute. &c.

Priuatio præsupponit habitum, vnde illa consectaria, non videtur rem amittere cuius propria non fuit. Non potest videri déesse habere, qui nunquam habuit. Quod quis, si velit, habere non potest, id repudiare non potest. Eius est non velle, qui potest velle. Expressa nocent, non expressa non nocent. Qui tacet, non vtiq; fatetur, sed tamen verum est eum non negare. Cum architecti quidam palatium ædificarent in via publica, & cum proiecto lapide proclamassent, quidam iter illac faciens, lapide vulneratus, architectos omnes in ius vocauit: ab his consultus Pyleus, animaduertit, eos probare non posse, quod proclamassent: itaq; non ius, ait, deficit, sed probatio. Cum igitur cras in iuditium veneritis, cauete, ne verbum proferatis, sed me solum loqui sinatis: die igitur iudicij constituto, cum à iudice accusationi respondere iussi essent, & *Pyleus* illos vt mutos excusaret, ibi aduersarius id pernegare cæpit, quoniam ipsos, cum vulneraretur, clamantes audisset, vt sibi caueret: quæ verba *Pyleus* statim ad acta referri iussit, & ita eos à lite liberauit. *Baldus* in sua pract. tit. de cautelis.

Contradictaries

As for contradictories, it were vtterly impertinent to make any discourse of them in this place, as wholy belonging to axiomaticall disposition, whereunto all contradictions are naturally incident, howsoeuer Beurhusius distinguish in this case.

Elenchs.

In relatiues, Omnia castor emis, sic fiet vt omnia vendas, Martiall.

Martiall. Indéed if Castor buy all, some body must néeds sel all: but it followeth not that therefore, Castor must sell all.

In Repugnant: Whitenes is a colour, therefore blacknes is no colour. It followeth not. For, as I sayd before, contraries generally are not such, of the which one and the same thing cannot bée affirmed, but such as cannot be affirmed of one and the same thing.

So in Relatiues. Tibullus lib. 1.

At vos exiguo pecori, furesq;, lupiq;
Parcite: de magno est præda petenda grege.

It followeth not, that because a pray is to bée taken of a great flocke, therefore nothing is to bée taken of a little one.

So in Priuatiues,

Hee that seeth is aliue, therefore
Hee that is blinde, is dead.

The 12. Chapter.

Of secondary Argumentes.

THus much of originall and first arguments. The secondary remayneth which is made of the ioyning togither of the first, and argueth as the first doe from whence it is deriued, as the cause therefore argueth absolutely, so such secondary arguments as are made of the cause, and so in the rest, according as their seuerall kinde of arguing is.

The Argument made of the first is eyther Distribution or Definition.

Annotations.

RAmus to these two which I haue put downe, addeth other two, Coniugates, and Notation, as argumentes made of the first. As for Coniugates, I sée in them no new differens force of arguing, as hée is iust, for hée dealeth iustly: hére is nothing in effect, but the cause and the effect. For as for the deriuation of this word, Iuste, from Iustice, it séemeth altogether grammaticall: and whereas they both do fitly allude in

the ende and falling, thus, Iustice Iust, Iustly, that commeth from a Rhetoricall figure, called Polyptoton, which concerneth the elegancie that is in the diuers fallinges and terminations of words.

So in Notation, the interpretation of the name, seemeth rather the dutie of a dictionary, then of any Logicall institution, as Argumentum ab arguendo: where againe there is no force of arguing but from the cause and the thing caused. For as for the pretty and conceipted chaunge of the word, argumentum ab arguendo, it seemeth also a Rhetoricall agnomination: yet as not fully resolued herein, I leaue them in these Annotations.

Coniugates or offsprings, bee wordes diuersly deriued from one head, as Iustice, Iust, Iustly, hee dealeth Iustly, therefore hee is iust. The primitiue word conteineth the cause of his offsprings, as here Iustice of iust dealing.

Aristotle commendeth this place highly 7. topic.

Canons.

If you put downe or remoue one Coniugate, you must put downe, or remoue the other: That which is giuen or taken, to or from the one: is giuen or taken, to or from the other: but here Contingency is more vsuall then necessitie, therefore heede is to bee taken in distinguishing the one from the other.

In 4. H. 7. 9. b. Un briefe de partitione facienda del terre et rent fuit port. Et Keble pleade pur le rent, que le def. fuit sole seisie, sans ceo que il tient pro indiuiso oue le pl. et per Bryan, cest bon plee, car il n'auera partition del chose dont il ne ad ascun parte.

Coniugates from the cause.

Terence in Hecyra Act. 3. scoen. 4. Dedecet iam ira hæc, etsi meritò iratus es. This anger becomes you not, although you haue cause to bee angry.

From the thing caused.

Tully in his oration for his house: Primùm dico, Senatoris esse boni, in Senatum venire. First I say, it is the part of a good Senator, to come into the Senate house.

From

From the subiect.

Tully to Atticus, Quia homo es, humana tibi ferenda est ratio. Because thou art a man, thou must beare such thinges as are incident to men.

From the adiunct.

Tully in his epistles: Rege interfecto, regios omnes nutus tuemur. The king beeing killed, wee mainteine euery kingly becke and countenance.

Elenchs.

Some learned men bee lewd liuers, therefore learning is lewd: Where it should bee thus; Learned men liue lewdly, therefore they bee lewde: or thus, Learning maketh men lewd, therefore it is lewd.

Notation.

Notation or Etymologie, is the interpretation of the word. For words bee notes of thinges, and of all words eyther deriuatiue or compound, you may yeelde some reason fet from the first arguments, if the notation bee well made. It is called Originatio, quod originem verborum explicet: and Etymologia, id est, veriloquium.

Nomina sunt argumenta, non quatenus ad rem significandam referuntur, sed quatenus referuntur vel inter se mutuò, vt coniugata: vel ad suæ originis interpretationem, quæ Notatio dicitur. Sed sic non considerantur vt nomina, id est symbola, sed vt res quędam, seu ὄντα quędam. *Piscator.*

Grammatica notatio exponit vocũ adsignificationẽ: Logica verò causam explicat, cur hoc nomen huic rei sit impositũ.

Piscator putat, à nomine ad rem significatam argumentari, nihil aliud esse quàm a testimonio argumentari: vt Christus in scriptura dicitur Deus, ergò est Deus.

Canons.

To whome the interpretation of the name agreeth, to that also the name it selfe and contrarily. Yet, sayth Corasius, ab interpretatione ad nomen ipsum deriuatum, sicuti est à genere ad speciem, desumpta argumentatio inanis est, quod etymologia latiùs pateat, quam nomen ipsum. Certè reciprocatio in his obscura & incerta est. Sed à deriuato ad deriuationem argui melius potest, vt tutor est, ergò tueri debet.

When the name is false, vnknowne, or ambiguous, then the reason is daungerous.

That which agréeth with the one, agréeth with the other.

Quips, taunts, iests, and conceipts are often fet hence.

All Platoes Cratilus is spent in the interpretation of words after this manner.

Nihil ambigi potest, ait *Cicero*, in quo, non aut res controuersiam faciat, aut verbum, in dictionibus igitur æquè atq; in rebus versatur Dialectica. *Hottoman.*

Examples of notations. From the cause.

Billinsgate, a gate in London builded by king Belus.

From the effect.

Prouident, of foreséeing future chaunces. And so in the rest.

Gospell, a good spell, or Gods spell, or saying. A Lordane signifieth an imperious idle fellow, of a lord Dane. Winchelsea, of wind, chilly, and sea: so in Latine it is called Frigmareuentus, of frigus, mare, ventus. Little Iohn, for that hée was wonderfully tall and bigge, héere the notation is from the contrary, as Lucus, quia non lucet, parcæ, quia non parcunt, Bellum, quia non bellum, & so of Ludus, Eumenides &c. Mutuum quasi meumtuum.

Victima, quæ dextra cecidit victrice, vocatur:
Hostibus à domitis, hostia nomen habet.

Arist. 2. Rhet. Draconis leges, non hominis, quod erant aspere. Dracoes lawes were a Dragons lawes, for their crueltie.

Territorium dicitur, quia magistratus eius loci, intra suos fines, terrendi, id est, coercendi ius habent.

The Court of pipowders incident to fayres, is called Curia pedis pulueri sati, for fayres commonly are dusty. 13. E. 4. 8.

Choke in 17. E. 4. b. Conclude que null contract serra, si non ambideux les parties simul consentiant. Car contractus dicitur à con, quod est simul, & traho, to draw together.

Seruus à seruando, as well as of seruiendo, quia seruabantur capti in bello, vt postea venderentur. Manumissio, quasi è manu dimissio. Mancipia, quasi manu capta. *Bracton* lib. 1. Fol. 4.

Dyer

Dyer semble que vn remaynder al feme pur vie apres le mort le baron, ne poet estre termed ne prise pur vne ioynture, purceoq; el doit prendre estate ioyntment ove son baron accordant al etymologie del parol, ioynture. 17. Elis. 50. Dyer.

Per Needham 4. E. 4. Præcipe quod reddat gist proprement vers le tenant del terre, de terris ou tenementis, car la il poet reddere: contra del comon de pasture appendant ou in grosse; la quod permittat gist que il suffer le demandant occupier son comon &c. Socage à soca. Littleton. 26. 7.

Fearmes, quasi feormian, qu'est vn Saxon paroll, significant pur fœder ou render vittayle, car les auncient reseruations fueront pur le pluis part in vittayles et nemy argent. Termes of the law. pag. 967.

Aulnage, ex quo Aulnager, est le measure et le metter per le yarde, in Latine, Vlnagium & vlnator, ab vlna. 13. & 14. Elis. 49. Dyer.

Shyrœue, of two Saxon words, Geresa, a ruler, and Scyran, which is to cut: as it were the ruler of the shire. For the Realme is diuided and cut, as it were, into such partes, called hærevpon shires, and allotted to seuerall shyrœues as their shires. In Latine hæ is called Vicecomes, quasi vicarius comitis, in seeing iustice executed in the shire, and the kinges reuenues brought in ærarium. Which the Counte, Earle, Comes himselfe should, but could not by himselfe, as attending for the most part vpon the king in warres, as the name beareth, Comes quasi comitans principem.

Constable, quasi Kyninstaple, or Kingstaple, the stay and hold of the king, for so was the Lord great Constable of England, who had authoritie in matters of warre within & without the Realme. Out of which office this lower Constableship was first fet. 13. E. 3. Stat. Winchester: where two constables in euery Hundred were appoynted to take view of armour.

Tythingman, Headborough, Chiefepledg, Borsholder, is in a manner all one with a petite Constable. Although before William Conquerour it was ordeined, that all frée borne men should cast themselues in companies by ten in ech company, and that euery of the ten should bée pledge and surety

for his fellow, and amerced for his default if he escaped. Here of these companies bée called Boroes or Borhes, a pledge, and Tything of ten. And because ten of these companies sometimes met for matters of weight, and ten times ten is an hundred, their generall assembly was called an hundred. The speaker and chiefe man was called the Tythingman, the Borsholder, quasi elder Boroe, and head-borohe, chiefe pledge. In these mætings among other things it was obserued, that euery of these pledges should yearely bée presented by the chiefe pledge at a generall assembly, yet called the view of Frankepledge, visus Franciplegij, or the Léete court. Maister Lambard.

Lathes, Rapes, and Wapentakes, be so called of the diuisions of partes of shires. Lathe is a barne, Rape a reaping. Sir Thomas Smith thinketh them to bée names of seruice, for that so many townes met in one day to reape or carry the Lords corne into his barne, and Wapentake of taking weapons, for that in those assemblies, hée that could not find suretie for his good abearing, had his weapon taken from him.

But M. Lambard in legibus Edwardi regis, writeth thus.

Totus ille conuentus dicitur Wapentac, eo quod per tactum armorū suorum ad inuicem confederati sunt: of *Wepun* & *Tac*, tangere vel confirmare, quià omnes præsentes cum lanceis suis tangebant hastam præfecti ipsius Wapentachij, & ità se confirmabant.

Bracton. Dicitur ideò breue, quia rem de qua agit, & intentionem petentis, paucis verbis breuiter enarrat, &c.

Maister Plowden. Fol. 357. a. Quia fines in curia nostra leuati finem litibus debent imponere & imponunt, ideò fines vocantur maximè. Sic Fol. 368. b. ex *Bracton*. Finis est extremitas vniuscuiusq; rei, hoc est, idem in quo vnaquęq; res terminatur, & ideò dicitur finalis concordia, quia imponit finem litibus.

Fol. 250. a. b. Et le nosme del estate fée tayle fuit done sur le certeintie del inheritance, come Littleton dit, car il dit, que Talliare, idem est, quod in certitudinem ponere. Et purceoq; en le done il est expresse de que corps les heyres que enheritont, isseront, pur cel cause il prist, que il fuit appelle

tayle.

tayle. Ou plustost puit auer le nosme de cest Francois paroll, tayler, lequel est decowper, car a tayler boys, est a cowper poys, et purceoq; l'estate est docked, ou cut off (car deuant il fuit fée simple, et a ore le fée est decise de ceo, et l'estate per ceo est docked, cut off, ou fait meynder) il poet bien estre dit estate tayle, cestascauoir, estate decoupe, decise, ou deminue.

Fol. 193. a. Terres venues en mains des homes de religion, sont appelle en ley de viender en mortmayne, per le resemblance (come Weston Justice dit) al tenure d'un home en extremes, que tient en son mayne quecoq; que il soit, tanq; que il soit mort. Et issint le continuance del inheritance en ceux de religion est suppose cy longement, que le meason continue. Vide Doctor & Student accordant oue ceo, pag. 172. a.

Fol. 198. b. Et le paroll, Expiration, est properment breathing vp, ou yelding vp the breath, come le seigniour Dyer dit, et est apply al home ou auters choses animate: et est vse pur le mort d'un home; car quant il yelde vp his breath, adonques il morust, car sans son breath il ne poet viuer. Et comentq, il est properment vse a choses animate, que breathont, vncore per vn similitude il est referre al choses inanimate. Come vsomus en nostre ley, Reuerter, que est properment vse in choses animate que soy remouent: mes aseun foits nous vsomus ceo in chose inanimate, come diomus, lou tenant en tayle morust, le terre reuertera al donor. Et issint expiration vse icy per similitude del choses viuant, implye fine quecoq;. Car come significomus per expiration le mort del home, et son darreine fine, quelconque boy, que il vient, issint ceo paroll, expiration, adde al estate pur ans, poet aptement signifier le fine de ceo quecoq;. Et issint expiration del estate pur ans, et fine del estate pur ans, est tout vn.

Court baron, of Barones, quasi virones, magnates, among the Barons called Thani. Court Lete, of the Saxon word Lant, which is law, so Lant-day by corruption of speech is come to be called Law-day. Barretter, of the French Barat, deceipt: or of the Latine, Baratro, or Balatro, a vyle knaue. Apprentice of Apprendre to learne. Sessions à sedendo. Acquittance, quasi acquietantia, &c.

Inditement, of the French word, Enditer, which Ste-

phanus, deriueth from the Greeke ἐνδείκνυμι, defero, accuso, postulo in iudicio, and ἐνδείκνυμαι, deferor, causam dico quod circa publica secus aliquid admiserim. Hereof is ἔνδειξις, delatio, and ἐνδεικτης, delator, quadruplator. Maister Lambard in his Iustice of peace. lib. 2. cap. 5. sayth thus. The vnderstanding or knowledge which the iustices of peace doe take by the trauaile of these enquirours is by the meane of their report, put in writing, and commonly called an enditement, or presentment: betweene the which two words (howsoeuer they bee confounded in common speech) mee thinketh that there doth easily appeare a certaine difference. For I take a presentment to bee a meere denuntiation of the iurors themselues or of some other officer without any other information: and an enditement to be the verdict of the iurours, grounded vpon the accusation of a third person. So that a presentment is but a declaration of the Iurours, or officers without any bill offered before, and an enditement is their finding of a bill of accusation to bee true. The one seemeth to come of the Greeke ἐνδείκνυμι I accuse, the other of the French, presenter, to offer vnto a man, or set before him.

Maister Lambard: Iust. lib. 2. cap. 16. Hereof also the fine toke first his name, of the Latine Finis, because it maketh an ende with the Prince for the imprisonment, for the offence committed, against his law, and in that respect chiefly doth it differ from an amerceament. For when the offender hath not so deepely trespassed, that thereby hee deserueth not any bodily punishment at all (as if hee bee nonsuite in an action, or doe commit any such like default) hee is sayde to fall into the kinges mercy, because hee is then mercifully to bee dealt with. And by the great charter, cap. 14. that amerciament and summe of money which hee is to pay for ỹ same, ought to bee assessed and affeered by the good and lawfull men of the neighbourhood, which also Glannil, lib. 9. cap. 11. affirmeth to haue bene the lawe of the land long before that time, saying misericordia domini regis est, qua quis per iuramentum legalium hominum de vicineto eatenus amerciandus, ne aliquid de suo honorabili contenemento amittat. But when the offence or contempt falleth out to bee so great, that

it

it asketh the imprisonment of the body it selfe, and that during the kings wil and pleasure, then is the party to redéeme his liberty with some portion of money, as he can best agree with the king or his Iustices for the same, which composition is properly called his fine, or his ransome, and in Latin Redemptio, as may be plainly seene by the statute of Marlebridge, 52. H. 3. cap. 1. 2. 3. & 4. and by the statute called Ragman, and diuers other auncient statutes.

The humanitie and conscience which Christian religion doth teach, hath ingendred a certeine feare and scruple in the hartes of our men, to haue slaues and bondmen. Yet necessity on both sides, of the one to haue helpe, and the other to haue seruice, hath kept a figure or fashion thereof. So that some would not haue bondmen, villeins in grosse, as ye would say immediately bond to the person and his heires; but ascriptitios glebæ, or agris censitos, and villeins regardant and bond to the manor or ground, as members belonging to the place, and following him who had the place; to the intent their seruice might bée furnished, and that the country béeing euill, vnwholesome, and otherwise barren, should not be desolate. Others afterwards found out the wayes and meanes, that not the men, but the land should bée bound, and bring with it such bondage and seruice to him that occupyeth it, as to carry the Lords dunge vnto the fieldes, to plow his ground at certeine dayes, sowe, reape, come to his court, sweare faith vnto him, and in the ende to holde the land but by the copy of the Lords Court roll, and at the will of the Lord. This tenure is called also in our Law, villeine, bond, or seruice tenure. Yet, to consider more déepely, all land, euen that which is called most frée land, hath a bondage annexed vnto it, not as naturally the lower ground must suffer and receiue the water and filth which falleth from the higher ground, nor such as Iustinian speaketh of de seruitutibus prædiorum rusticorum & vrbanorum; but the lande doth bring a certeine kinde of seruitude to the possessor. For no man holdeth lande simply frée in England, but he or she that holdeth the crowne of England: all others holde their land in fée, that is vpon a fayth or trust, and some seruice to another Lord of a manor as his

superior, and he againe of a higher Lord, till it come to the prince and him that holdeth the crowne. So that if a man die, and it bee founde that he hath lande which he holdeth, but of whom no man can tell, this is vnderstood to be holden of the crowne, and in capite, which is much like to knights seruice, and draweth vnto it three seruices, Homage, ward, and mariage: that is he shall sweare to be his man, and to be true vnto him of whome hee holdeth the land. His sonne who holdeth the land after the death of his father, shalbe married where it pleaseth the Lorde. He that holdeth the land most freely of a temporall man (for francke almes and francke mariage hath an other cause and nature) holdeth by fealtie onely, which is, hee shall sweare to bee true to the Lord. So that all free land in England is holden in fee, or fedo, which is asmuch to say, as in fide or fiducia, that is, in trust and confidence, that hee shalbe true to the Lorde, of whome he holdeth it, pay such rents, doe such seruice, and obserue such conditions, as were annexed to the first donation. Thus all, sauing the Prince, bee not veri domini, but rather Fiduciarij domini & possessores. This is a more likely interpretation then ỳ which Littleton doth put down in his booke, who sayth that fœdum, idem est quod hæreditas, whith it doth betoken in no language. This happeneth many times to them who bee of great wit and learning, yet not seene in many tongues, or marke not the deduction of wordes which time doth alter. Fides in Latine, the Gothes comming into Italy, and corrupting the language, was turned first into fede and at this daye in Italy they will saye, in fide, en fede, or a la fe. And some vncunning lawyers that would make a newe barbarous Latine worde to betoken land giuen in fidem, or as the Italian sayth, in fede, or fe, made it, in feudum, or fedum. The nature of the word appeareth more euident in those which wee call to feffe, feoffee or feoffees, the one be fiduciarij possessores, or fidei cõmissarij, the other is, dare in fiduciam, or fidei commissum, or, more Latinely, fidei committere. The like error is in Wythernam, which some interprete vetitum nauium: whereas in trueth it is in playne Dutch, and in our old Saxon language

wyther

wyther nempt, alterum accipere: iterum rapere: nâm is, pignoris ablatio, wyther, signifieth altera. But to returne thither where wée did digresse: yee see that where the persons bée frée, and the bodies at full libertie and maxime ingenui, yet by annexing a condition to the land, there bee meanes to bring the owners and possessors thereof into a certaine seruitude, or rather Libertinitie: that the tenantes, besides paying the rent accustomed, shall owe to the Lord a certaine fayth, duetie, trust, obedience, and, as we terme it, certaine seruice, as Libertus or cliens patrono: which, because it doth not consist in the persons, (for the respect in them doth not make them bonde) but in the land and occupation thereof, it is more properly expressed in calling the one tenant, the other Lord of the fée, then either Libertus or cliens can doe the one, or Patronus the other: for these wordes touch rather the persons, and the office and duetie betweene them, then the possessions, but in our cause, leauing the possession and land, all the obligation of seruitude and seruice is gone.

So much haue I collected out of sir Thomas Smith, concerning this word fee. lib. 3. cap. 8. 10.

Maister Lambard. Iust. lib. 2. cap. 14. Arraignement séemeth to haue borrowed the name out of the worde Arraye, which is the pannell or iurie, because hee that is arraigned, must be tried by them, being first called, sworne, and tryed in order for that seruice.

Maister Lambard. Iust. lib. 1. cap. 13. This sauing then, or deliuery of a person out of prison, before hée hath satisfied the law, is vttered by three tearmes in our statutes, that is to say bailement, mainprise or manucaption, and repleuine: and they bée indifferently vsed to expresse that suretie, which the prisoner is to finde in such a case. Neuertheless it seemeth that a repleuine had his original of the word, pledges, which denoteth them that vndertake for the partie, that hee shall abide to be iustified by lawe: and it is vsed in diuers other cases, as in repleuine of cattell vpon distresse, repleuine of fraunchises in a quo warranto, repleuyne of land vpon a grand cape in olde time, and repleuine of the person of a man in case of villenage.

Baylement is deriued from the French terme Bayler, and that also commeth of the Greeke Βάλλω, they both signifiyng to deliuer into hande. For hee that is bayled, is taken or kept out of prison, and deliuered, as it were, into the handes of his friendes, as sureties for him. Whereof also the worde Manucaptio, or Maineprise, which is all one, giueth good euidence, the one mentioning the deliuery, the other the receyuing. And in this respect, the booke of the Norman customes calleth baylement, a liue prison, for that the party thereby becõmeth prisoner to his frẽndes that do vndertake for him.

Maister Lambard. Iust. lib. 1. cap. 21. As in olde time euerie killing of a man was of the effect, called Murder, because death ensued of it (and of the Hebrew worde Moth, saith Postellus, commeth the Latine Mors, which the Saxons our elders, called Morth and Morthor, as wee yet sound it) so was that wilfull manner of slaying with malice prepensed, long since, and most properly, called Felony, because it was done felleo animo, in malitious heate and displeasure, and therefore per feloniam, as the statute at Marlebridge cap. 15. doth plainely tearme it.

Maister Lambard. Iust. lib. 2. cap. 19. Riot seemeth to come of the French worde Rioter, which signifieth to brawle or scolde; for that commonly Riots indeede, do follow of brawling in word. And it is taken to bee where there is any vnlawfull assembly (An vnlawfull assembly is the company of three persons or more gathered togither to do such an vnlawfull act, although they do it not indeede) of men gathered together, and going about to commit an vnlawful act, and they do execute it indeede, as to beate a man, or to enter vppon a possession forcibly, or such like.

Our Rout is the same which the Germains yet call Rot, meaning a band or great company of men gathered togither, and going about to execute, or executing indeede any Riot or vnlawfull act. And, sayth Marrow, it is saide properly of the multitude that assemble themselues in such disorderly sorte for their common quarrell: as if the inhabitants of a towneship do assemble to pull downe a hedge or pale, to haue their common, where they ought to haue none, to beate a man that

hath

hath done them some publike offence or displeasure.

M. Lambard. Iust. lib. 1. cap. 17. The words Affray and Assault bee indifferently vsed of most men, and that in our booke cases, but yet in myne opinion, there wanteth not a iust difference betweene them. For Affray, is deryued of the French, Effrayer, which signifieth, to terrifie, or bring feare, and is the more hainous trespasse: for the Law vnderstandeth it to be a common wrong, and therefore it is enquirable and punishable in the turne of the shiriffe, and in a leete. 4. H. 6. 10. and 8. E. 4. 5. Otherwise it is of an assault, as it seemeth by those very bookes. Yet may an affray bee without word or blow giuen: as if a man shall shew himselfe furnished with armour or weapon, which is not vsually worne and borne, it wil strike a feare into others that be not armed, as hee is, and therefore both the statute of Northampton. 2. E. 3. cap. 3. made against the wearing of armour and weapon, and the writ therevpon grounded, do speake of it, by the words, Effray del pais, and, in terrorem populi.

But an Assault, as it is fetched from another fountayne, namely from the Latine Assultus, which denoteth a leaping or flying vppon a man: so can it not bee performed without the offer of some hurtfull blow, or at the least of some fearfull speech. And therefore to rebuke a collector with fowle words, so that hee departed for feare without doing his office, was taken for an assault. 27. lib. Ass. Pl. 11. And to strike at a man although hee were neither hurt, nor hit with the blowe, was adiudged an assault. 22. lib. ass. pl. 60. For this assault doth not alwayes necessarily imply a hitting: and therefore in trespasse of assault and battery, a man may bee founde guilty of the assault, and yet excused of the battery. 40. E. 3. 4. and 45. E. 3. 24.

Estreates are called of the word Extracta, because they bee short notes or memorials, extracted or drawne out of the Records by the Clarke of the peace, and by him indented and deliuered sunderly to the shiriffe, and to the barons of the Eschequer, bearing this, or the like title: Extracta finium, amerciamentorum forisfactorum, ad generalem sessionem pacis tentam apud Maydstone &c. coram &c. For the whole

forme of the making hereof, there is full direction giuen to all clerkes of estreates, by the statute. 7. H. 4. cap. 3. whereunto I referre them.

I haue purposely inserted a number of notations, for that I would make it plain, how the notion of the thing is oftentimes expressed by the notation of the word, contrary to the preiudicate opinion of some sely penmen, and illogicall lawyers, who thinke it a fruiteles poynt of superfluous curiositie, to vnderstand the words of a mans owne profession.

Elenchs.

A Woman is a woe man, because shee worketh a man woe. Agreamentum, quasi aggregatio mentium. But all the sport is to heare the Monkish notations of wordes both Greeke and Latine, whereof they knew neither sence nor signification, as Diabolus, of Dia, that is two (say they) and bolus, which signifieth a morsell, because the deuill maketh but two morsels of a man, one of the soule, and another of the body. Hypocrisis, of ὑπὸ, which is ouer, and χρυσὸς, gold, because hypocrites bee cloaked with a golden shew ouercast; whereas the one commeth of διάβαλλω, to cast in accusations: the other of ὑπόκρινομαι, to dissemble.

The 13. Chapter.

Of Distribution.

IN Distribution and Definition there is a most necessary reciprocation or conuersion: in distribution, of all the parts with the whole: in definition, of the thing defined, with the definition it selfe.

A distribution is, when the whole is distributed into his partes. And as the distinguishing of the whole into his parts, is called Distribution: so the collection or gathering together of all the parts to make vp the whole, is named Induction.

Distribution is made of arguments which are agreeable to the whole, but disagreeable among themselues: so that it is so much the more perfect distribution, by how much the

partes

partes doe more agree with the whole; and disagree among themselues.

Annotations.

REciprocation :] In other arguments not necessary. For it is not in all causes, but onely betweene the forme and the thing formed: not in all subiects, but betweene the subiect and his proper adiunct, not in all contraries, but onely in Relatiues. Whereas in distribution and definition, the reciprocation is perpetuall.

Such is the excellency of distribution and definition, that almost they alone doe suffice for the absolute putting downe of any art. Therefore Socrates in Phædro Platonis sayth, that if he finde any man who can cunningly diuide, he will follow his steps, and admire him for a God.

[Induction :] Therefore as the one is an argument, and no argumentation, so also is the other. Nam Inductio arguit distributum siue totum, sine vlla dispositione tertij argumenti.

[More agree with the whole :] For in distribution of the subiect and adiunct, the partes and the whole doe not essentially agree, as we shall see hereafter. Therefore by this rule the best diuision is from the cause and effect. Againe, the more that the partes doe disagree among themselues, the better is the diuision. By which it appeareth that the best diuision must be of partes that be most repugnant, which can bee but two, therefore Dichotomia is most excellent, a diuision consisting onely of two partes. For, as among agreeable arguments the cause and thing caused doe best agree, so of all disagreeable; the repugnant be most disagreeable. But as in the most generall and subalternall, Dichotomia must bee obserued, so in the most speciall it is not to be exacted.

Elenchs.

Plato in Phædro compareth inartificial diuiders to bungling Cookes, who in stead of artificiall carving, vse rudely to breake and dismember thinges. This is a lamentable want in our law, I meane exact diuisions, in place whereof wee haue nothing els, but either A B C methode without coherence, or primo notandum, 2. not. 3. not. 4. not. & so on still till

hée come to decimotertiò notandum, like dunses in schooles, and sélly bablers in pulpits: that a man were farre better make a new spæch, than remember their waste and confused Schediasmata. Lyttleton did what hée could in this behalfe, although it were but litle, as in those his distinctions, Estate taile is generall or speciall: Dower is per le comen ley, per custom, ad ostium ecclesiæ, ex assensu patris, de la pluis beale. Willen per prescription ou confession: Item in gros ou regardant. Rent est rent seruice, charge, seck. Conditions in fayt, en ley. Garrantie, lineall, collaterall, per disseisin, &c.

Well then, one generall Elench in a distribution, is the not vsing of it, when the matter requireth. Another is, when wée vse it, but inartificially, when any thing eyther wanteth in it, or is superfluous. Want, as in that which Virgil hath 5. Aeneid. where hée propoundeth in his distribution onely foure kindes of exercises, but afterwards expoundeth fiue.

Prima citæ Teucris ponam certamina classis,
Quiq; pedum cursu valet, & qui viribus audax,
Aut iaculo incedit melior, leuibusq; sagittis,
Seu crudo fidit pugnam committere cestu,
Cuncti adsint, meritæq; expectent præmia palmæ,
Ore fauete omnes, & cingite tempora ramis.

For besides these foure, followeth the fift, not named here in the distribution, and that is the race of horses.

For superfluitie, that shall serue which Tully hath in his second booke De finibus, where hée speaketh thus of Epicurus.

Quomodo autem philosophus loquitur tria esse genera cupiditatum? Naturales & necessarias, naturales & non necessarias, nec naturales nec necessarias. Primùm diuisit inleganter: duo enim genera quæ erant, fecit tria: hoc est, non diuidere, sed frangere rem. Qui si diceret, Cupiditatum duo esse genera, naturales & inanes: naturalium quoq; duo, necessarias & non necessarias, confecta res esset. Vitiosum est enim in diuidendo, partem in genere numerare.

The

The 14. Chapter.

Of Distribution of Causes.

DIstribution is made eyther of argumentes fully agréeable, or agréeable in parte: fully as first of the cause.

The distribution made of the cause is, when the partes are the causes of the whole. And this is called partition, when the whole integrall is diuided into his members.

Hobbinoll confuteth Diggon Dauy in September, proouing by a distribution of England into her parts, no Wolues to bée in England.

Fye on thee *Diggon*, and all thy fowle leasing,
Well is knowne, that sith the Saxon king,
Never was Woolfe seene, many nor some,
Nor in all Kent, nor in Christendome.

For most parte of England béeing Christian in Ethelberts time, Kent onely continued in Paganisme, and was therefore counted no parte of English Christendome. So that partition is vsed both in a distinct propounding of partes, where any long matter is to bée handeled of Poets, Orators, Preachers, Lawyers, &c. and also syllogistically in arguing eyther the whole by the partes, or the parts by the whole.

Maister Plowden. Fol. 170. a. Terre ne poet perteigner al messuage. Car messuage consist de deux choses, del terre et structure, et terre ne poet perteigner al terre, &c.

Fol. 151. a. Reuersion del terre consist des deux choses del terre, et del residue ou remnaunt estate. Come Manor del seruices et demesne; stagnum del terre et eawe; Piscaria del eawe et terre &c.

Annotations.

E Causis singulis distributio esse potest. Ex efficiente, vt ius est naturale, ciuile, gentium; ex materia: vestes sunt laneæ, lineæ, &c. Ex forma, lanx est, quadrata, rotunda, &c. Ex fine, vestes sunt induendi causa, vel præcingendi, insternendi, &c.

For the Elenchs touching distribution of the integrall, see before in the tractate of the integrall.

The 15. Chapter.

Of distribution of Effects.

THe distributiõ of the thing caused or of the effects is, whose parts are effects of the whole, and this is properly called Diuision, when as the generall or vniuersall is diuided into his specials. And as the first called Partition; so this called diuision is handeled as well in forme of Distribution, as in arguing the one by the other.

Maister Plowden. Fol. 132. b. Il n'est rente: car si serroit rent, adonq; il couyent de necessitie d'estre rent charge, rent seck, ou rent seruice, car ne sont plusors rents que ceux trois, et rent charge il n'est my, car null distres est done, nec ascun terre charge oue ceo, nec seck ou seruice, quia n'est issant hors d'ascun terre, Ergò n'est rent.

Elenchs.

Althusius thus diuideth vnlawfull pleasures: into stuprum and adulterium. Stuprum inter personas solutas, and is voluntarium or violentum. Voluntarium fit ab extraneis, aut à consanguineis, vt incestus. Ab extraneis, naturaliter, vel contrà naturam: naturaliter à mare & fæmina. Contra naturam, à mare cum mare, à fæmina cum fęmina, aut cum bestiijs. Adulterium est cum alterius coniuge vel marito. The whole constitution of this diuision is erroneous. For most of the things which are conteyned vnder stuprum, may as wel, and do as well belong vnto adulterium. Fenners diuision therefore is farre better: where hée sayth they bée

Præter naturam, or secundum naturam: præter naturam est vel coufusio tum specierum, tum sexuum, vel incestus. Specierum, cum bestiæ verè vel spiritus specie hominibus miscentur voluptatis causa; sexuum, confusio est, cum mares maribus, fæminæ fæminis miscentur. Incestus sunt, cum propinqui carne miscentur etiam in coniugio,

Secundum

Secundum naturam est scortatio vel adulterium: Scortatio est, cum matrimonio soluti illegitimè miscentur. Adulterium, cum altera persona saltem sit desponsata. Nam si vtraq; sit desponsata, grauiùs est adulterium.

It is all one whether the generall bée diuided into his specials, or into the formes of the specials, as Animal is eyther rationale or irrationale, where the specials bée as significantly put downe as if they were expressed by their owne proper names, man and beast.

The 16. Chapter.

Of Distribution of argumentes after a certeine maner agreeable.

THe second kinde of Distribution is made of argumentes agréeable after a certeine manner, as of subiects and adiuncts.

The Distribution made of the subiect is, when the partes are set from the subiect.

Hobbinoll in his song of Elysa, diuideth her beauty being the adiunct, into her seuerall subiects, as, face, eye, chéeke, &c.

Tell mee, haue yee seene her angelike face
like *Phœbe* fayre?
Her heauenly hauiour, her princely grace
can you well compare?
The red Rose medled with the white yfeare,
In eyther cheeke depaynten liuely cheare:
Her modest eye,
Her maiestie,
Where haue you seene the like but there?

M. Plowden Fol. 279. b. Et quant a ceo, troys y sont (come Walshe dit) que ount a intromitter oue les biens del mort, cestassauoir, l'executor, le ordinary, et les administrators &c.

The Distribution of the adiunct is, when the partes are set from the adiuncts.

Diggon in September.

For either the shepheards bene idle and still,
And led of their sheepe what way they will,

Or they bene falſe or full of couetiſe:
And caſten to compaſſe many wrong empriſe:
But the more bene fraught with fraud and ſpite,
Ne in God nor goodnes taken delite.

Maiſter Plowden Fol. 328. Mynes de plumbe ſont fertile, ou ſterile, &c,

Annotations.

PIſcator would haue ſome diuiſions to bée of thinges, as thoſe that Ramus hath put downe: and ſome of wordes, to diſtinguiſh the diuers acceptions of ambiguous wordes, as Littleton pag. 51. in this word Aſſiſe, which he ſaith is equiuocum, &c. But that belongeth rather to a Dictionary-maker, then a teacher of Logike, ſaith one. And, indéede, as another aunſwereth, words bée diuided together with the things: as Liberty and freedome is eyther bodily or ſpirituall: where, as well the thing, as the word is diuyded.

All Logike is generall, and applyable as well to thinges imagined, as things that bée extant in truth: and therefore to words alſo, as wordes haue cauſes, effectes, ſubiectes, adiuncts, and other arguments to bée conſidered. Logicus, ſaith *Hottoman*, inſitam vocum inter ſe rationem, habitum, reſpectum, affectionem: Grammaticus tantùm accidentia, & popularis ſermonis in ijs iungendis conſuetudinem exquirit, &c.

Sith theſe two laſt kindes of diſtribution bée ſayde to bée made of argumentes agréeable after a certeine manner; wée are to vnderſtand, that neyther the whole héere, is of the eſſence of the partes, nor the parts of the nature of the whole: ſo that this is no true diſtribution indéed, but rather an imagined diſtinction. And theſe bée partes, not of any whole, but rather of order, diſtinction, and particular rehearſall or enumeration.

Canons.

Therefore if you affirme or deny, either the adiunct which is the whole, or the ſubiects which bée the partes, you may contingently affirme or deny the one or the other.

And ſo in the other of the adiunct, the adiunctes as partes béeing affirmed, the ſubiect as whole may be alſo affirmed.

Diſtrib. in Sub.

Stamford

Stamford. prærog. reg. cap. 1. For which cause the lawes do attribute vnto him (the king) all honour, dignitie, prerogatiue and preheminence, which prerogatiue doth not onely extend to his owne person, but also to all other his possessions, goods, and cattels. As, that his person shall bée subiect to no mans suite, his possessions cannot bée taken from him by any violence or wrongfull disseisin: his goodes and cattels are vnder no tribute, toll, or custome, nor otherwise distreignable.

Elenchs.

If a false adiunct bée diuided into false subiects: as arguments bée eyther affirmatiue or negatiue. Or if a false subiect bée diuided into vnfit adiuncts, as spirits some be white, some blacke.

The 17. Chapter.

Of a Definition.

A Definition is that which declareth what a thing is: it consisteth on two parts, the generall and the difference. Whereof the first is common to the thing defined, and all his other fellow specials, but the difference is proper onely to the thing defined, and distinguisheth it from all other his fellow specials.

A definition is perfect or vnperfect; whereof the first, for the excellency, is called definition by the common name: the second is tearmed a description, by a more speciall tytle or word.

Definition

A perfect description is that, whose difference is set from the formall cause of the thing defined, as, A man is a sensible creature endued with reason, where, sensible creature is the generall, and endued with reason, is the difference: so that whatsoeuer is in a definition placed after the generall, that I call in this place the difference.

By an argument from the definition, Piers in May proueth hyrelinges, to bée no shepheardes, because the true definition of a shepheard agreeth not with them.

Thilke same bene shepheards for the Deuils stead,
That playen whilest their flockes be vnfead.

Where after followeth a definition (a cuntrey definition) of an hirelyng, by application whereof vnto them, hée proueth them to bée hyrelings.

Well is it seene their sheepe be not their owne,
That letten them run at randome alone:
But they bene hyred, for little pay,
Of others that caren as little as they,
What fallen the flocke, so they han the fleece,
And get all the gaine paying but a peece.

Maister Plowden Fol. 54. b. Car couyn, solonq; le vray definition de ceo, est vn secreate assent, determine en les cœurs de deux ou pluso⁊s homes, al p⁊eiudice d'auter. Come si tenant pur vie voyle secretement conspirer oue vn auter, que l'auter recouera en p⁊eiudice de cestuy en reuersion. Car per ceo son reuersion serra toll. Et ceo conspiracy est et poet estre terme, et dit couyne; car touts les parts del couyne sont la perimplies. Car la est vnitie de lour deux cœurs; et est secretement fayt, et est en p⁊eiudice del tierce person, et issint perfect couyne sans mayheme ou blemish.

Fol. 261. a. Et quant al qualitie del offence, quel le offendo⁊ icy ad fayt, il dit, que est in degrée del murder, et nemy de manslaughter. Car manslaughter est le occider del home felonio⁊sement sans malice p⁊epense. Mes murder est occider del home sur malice p⁊epence. Et icy le occider de luymesme, fuit p⁊epence et resolue en sa ment deuant le act fayt. Et auri il agrée in auter point oue l'auncient definition del murder, que fuit tiel, Murdrum est occulta hominis occisio, nullo præsente, nullo sciente. Issint icy sir Iames Hales secreatement surround luymesme, ne auterment il serroit stay ou interrupt de ceo fayre.

Fol. 359. a. Le seigniour Dyer define clayme en tiel maner; Clayme est challenge per ascun home del p⁊op⁊ietie ou ownership del chose que il ne ad en possession, mes que est deteigne de luy per tozt.

Annotations.

Annotations.

Definition is not set among the last, as though it were one of the worst, but because it is made of those other going before, and therefore cannot bee conceiued without them.

Heere wee teach what a definition is, and how to make it, therefore it commeth after the other argumentes of which it is made: but in the tractate of Methode, wee shew how and where to place a definition already made; and therefore according to her excellency, we allow her the first place.

Diuisio est quasi sectio rei in partes: Definitio contra, quasi collectio & comprehensio partium ad rem explicandam.

Theloall hath taken some more paines in defining and diuiding a writ, than eyther the author of the Register, of old Natura breuium, or Fitzherbert. Theloals definition is alreadie put downe elsewhere.

Tenant in fesimple est celuy que ad terres ou tenements a tener a luy, et a ses heyres a touts iours. Littleton pag. 1. Disseisin est vn tortious ousting del francktenant per entree nyent congeable. 62. a. Plowden.

Nous voulons que prisone soyt tenue place per nous bounde dedeins certeyne bounds assignes pur le garde del corps del home. Brytton. 17. Appele est pleynte de home fait sur auter, ouesq; purpose de luy atteyndre de felony par mots a ceo ordeynes. Brytton, when hee had thus defined matrymony, Fol. 246. Matrimony est assembly de home et de feme, a lour deux assents par ioynture de saynt eglise, pur demorer ensemble auxi come vn chayre a touts lour vies, sans espoyre de partir: afterwardes, Fol. 252. hee proueth that if a man haue two wiues, the second is not feme de iure by this definition, thus; et deux ne poyt il my auer a vne foits, sicome apiert per le definition de matrimony, ou est dit, que matrimony est assembly de home et de feme, et nemy de home et femes, ou feme et homes, mes singulerment feme et home. It is shame that Brytton were not newly printed, and pittie that hee and Bracton bee no more reade: for though the Law bee much altered since their time, yet there is no essentiall part of the Law, which hee and Bracton do not define, diuide, and handle accordingly. So that by discretion a man shall by

one chapter of Brytton more plainely perceyue the nature of Garde, villen, &c. then by turning and tossing of forty vncoherent cases in yeare-bookes, which do not expound the nature of, Gard. villen, &c. but are spent in the determination of some obscure poynt touching Gard. villen, &c. and do presuppose a generall notice of them, before wee come to the examination of particular difficulties discussed in yeare-bookes. And indeed it seemeth a preposterous thing to iangle of moote conceiptes in Essoyne, Protection, &c. not knowing what an Essoyne is, what a Protection meaneth. But as in Vniuersities, so in Innes of Court, the greedy desire of a superficiall shew in vnnecessary tryfles maketh vs want the true substance: they for hast to get a prebend by a degree, make light worke and run ouer two or three Epitomes; and wee by a moote-booke and a Brookes abridgement climbe to the barre, & bar our selues vtterly from the substance of the cõmon Law. But omnis definitio in iure ciuili periculosa est, and so in the common Law. Thats true, but M. Theloall, as also Freigius, who is of the same minde, misteke the word; for I thinke Vlpian, by this word, Definitio, meaned not the Logical definition which expoundeth the nature of a thing, but breuem & circumscriptam quandam iuris sententiam, quam iurisconsulti regulam, Dialectici *Thesin*, seu positionem; Medici *Aphorismum* nominant. And yet, bee it as it may bee, I doubt not but who so attempteth to make Logicall definitions in the Law, shall finde it somewhat daungerous, because it is very difficult.

Cambiparticipes sunt, qui per se vel per alios placita mouent, vel mouere faciunt, & ea suis sumptibus prosequuntur, ad cambipartem, vel pro parte lucri habenda. Stat. an. 33. E 1.

Tostum est ou meason ad este, et ore est nul mesuage, mes le site del meason apiert. Curtilagium est vn soyle ou garden apperteignant a vne mease, quasi curta pecia terræ. Fayrfax. 21. E. 4. 52.

Glanuil. lib. 9. Fol. 7. Dicitur autem purprestura, vel porprestura propriè quando aliquid supra dominum regem iniustè occupatur, vt in dominicis regis, vel in vijs publicis obstructis, vel in aquis publicis transuersis a recto cursu, vel

quando

quando aliquis in ciuitate super regiam plateam aliquid ędificando occupauerit, &c.

24. H. 7. 12. Reade. Mispriſion properment eſt lou vn choſe eſt agrée deſtre vray, come noſme del ville ou del perſon, et puis en meſme cel plée, cel choſe eſt autrement noſme, Come ou ieo ſue noſme en formedome R. Reade, a que ieo face defence, et en mon barre ieo moy entitle per le noſme del T. R. ceo ſerra amend, car ſerra entend que le clerke fuit ignorant que ceo eſcript iſſint. Mes ſi en briefe vers moy per le noſme de R. ieo dy, vous aues cy le dit T. ceo neſt miſpriſion amendable.

In ſtead of geuing a true definition or explication of the nature & eſſence of any thing in our lawe, theſe ſingleſolde Lawyers and golden Aſſes aunſwere, ὡς ἐν τύπῳ: put downe a particuler caſe, as if I ſhoulde aſke what is a man: A man, ſay they, is ſuch a thing as Willy the milman: Robin the pannierman, &c. Where a generall definition béeing put downe, woulde giue a ſpeciall light to the matter in hand.

Accurata definitione vtendum eſt in artibus, & cum doctis hominibus: in vulgus autem, & imperitorum ſenſus, deſcriptiones aptiores ſunt.

Heriettum eſt quædam præſtatio, vbi tenens liber vel ſervus in morte ſua dominum ſuum reſpicit de meliori auerio ſuo, vel de ſecundo meliori: quæ quidem præſtatio magis de gratia quam de iure fit. Fleta: lib. 4. cap. 3. Eliſ. 58. Dyer.

Collegium eſt ſocietas plurium corporum inter ſe diſtantium: & dicitur collegium propriè, cum ſimul habitant, quoniam ſimul colliguntur, & collegium conſtituitur in eccleſia vel per priuilegium conceſſum a ſuperiori poſt fundatam eccleſiam, vel ſi a principio fuit ordinatum, quod eccleſia eſſet collegiata, vel ſi longo tempore vixerint collegialiter & ſunt in quaſi poſſeſsione collegij. Item eccleſia poteſt fieri collegiata cum conſenſu epiſcopi & patroni. 9. & 10. Fliſ. 13. Dyer.

If ſome of theſe examples by mée collected ſeeme rather good deſcriptions, then perfite definitions: thou that ſo thinkeſt, muſt thinke this alſo, that I could finde no better.

Therefore Si quid nouiſti rectius iſtis,
Candidus imperti: ſi non, his vtere mecum.

A definition is called of the Grecians, ὅρος, ὁρισμὸς, ὁριστικὸς λόγος. Which is a translated worde from boundes and limittes of grounde. For as they hedge in and include the ground: so doth a definition limite and circumscribe, or, as it were binde in the nature of that which is defined.

And that also is the naturall signification of this worde which the Latinistes vse, finire, or definire: from whence come finitio, and definitio: Which we now vse as an English word. Finis is an end, finire, and definire, signifie to limite and end, or circumscribe one from an other, that so it may be knowne from other. The chiefe vse then of a definition is, to shew and make playne: yet an argument proouing may bée fet both from the definition to the thing defined, and from this to that, negatiuely, and affirmatiuely, and so it is in descriptions.

[The difference:] This difference is sometimes fet from the very internall forme and essentiall cause of the thing defined: which is best, but hard to bée found: and therfore, instead thereof, sometimes the ende is vsed, sometimes the proper adiunct, sometimes many adiunctes togither, sometimes the subiect.

One Relatiue doth define an other.

Canons.

If the definition bée, then the thing defined must bée, and contrarily: but if not that, then neyther this, and contrarily.

To whatsoeuer, the definition eyther may or may not bée applied, to the same also the thing defined eyther may, or may not bée attributed, and contrarily.

Whatsoeuer agréeth, or not agréeth with the definition, the same thing eyther will agrée or not agrée with the thing defined and contrarily.

In genere ascisendo satis erit proximum ponere, neq; altius a capite repetere. Nam qui proximum genus possuit, is etiam superiora omnia posuisse intelligitur. Quandoquidem (ait *Aristoteles* in topicis) in inferioribus ea quæ suprà sunt intelliguntur. *Hottoman.*

Maister Lambert; Iust. lib. 1. ca. 1. Iustices of the peace

bée

be Iustices of record appoynted by the Quéene to bée iustices within certaine limites: for the conseruation of the peace, and for the execution of sundrie thinges comprehended in their commission, and in diuers lawes committed vnto them.

The 18. Chapter.

Of a Discription.

AN imperfect definition or description, is that whose difference is set elswhere then from the formall cause, and it is sometimes briefe, sometimes more largely amplified.

Thenot in February describeth the oake, thus,

There grew an aged tree on the greene,
A goodly oake sometime had it beene,
With armes full strong and largely displayde,
But of their leaues they were disarayde:
The body byg, and mightily pyght,
Throughly rooted and of wondrous hyght:
Whilom had bene the king of the field,
And muchel mast to the husband did yeeld,
And with his nuts larded many swyne,
But now the gray mosse marred his ryne.
His bared boughs were beate with stormes,
His top was balde and wasted with wormes,
His honour decayde, his braunches sere, &c.

In May Piers describeth the kid.

She set her yongling before her knee
That was both fresh and louely to see,
And full of fauour as Kid mought bee.
His vellet head began to shoot out,
And his wreathed hornes began to sprout.
The blossoms of lust to bud did begyn,
And spring foorth rankly vnder his chyn. &c.

Where afterwards followeth the description of the counterfayt pedler, the for. by adiuncts, effects, &c.

It was not long after she was gone,

But the falſe fox came to the doore anone,
Not as a Foxe, for then he had bee kend,
But as a poore pedler he did wend,
Bearing a truſſe of tryfles at his backe,
As bels, and babes, and glaſſes in his packe.
A biggen he had got about his brayne,
For in his headpeece he felt a ſore payne.
His hinder heele was wrapt in a clowte,
For with great colde he had got the gowte.
There at the doore he caſt me downe his packe.
And layd him downe, and groand, alacke, alacke,
Ah deare Lord, and ſweet ſaint Charitee,
That ſome good body would once pity me. &c.

Maiſter Plowden Fol. 273. a. Terminus, ſi ſit referre al temps, eſt le fine del ceo, come Weſton dit: et poet eſtre referre al lieu, come le ſeignior Dyer dit, come terminus loci; et adonques il eſt priſe come precinct ou lymite del vn lieu, come bounde eſt inter terres de diuers homes, et iſſint ad meſme le ſentence, come certeintie ad, ſoit il referre al tẽps, ou lieu: et terminus loci poot eſtre dit certeintie en lieu: terminus temporis eſt certeintie en temps.

Fol. 88. a. Et moy ſemble que pretenſed droyt ou title neſt forſque en vne caſe, et ceo eſt l'ou vn eſt en poſſeſſion de terres, ou tenements, et auter que eſt hors del poſſeſſion, clayme ceo ou ſue pur ceo; ceo eſt pretenſed droyt ou tytle.

Fol. 368. b. Deſcription de peace per Catlyn, et Fol. 195. a. Deſcription del fearme per Browne et Dyer &c. Ibidem, Le Comen ley, n'eſt que comen vſe.

Annotations.

AS breuity is commended in a perfect definition, ſo copious amplification is fitteſt for a deſcription: yet ſo as ſwelling ſuperfluitie bee alwayes auoyded.

Deſcriptio is called of the Græcians πολιφραſις, τυπος, σκιαγραφη, ὑπογραφη. Some call it in Latine, Alluſio: it hath of diuers men, vppon ſundry occaſions diuers names. Sometimes ὑποτυπωσις, as it were a certeine delineation: if any perſõ be deſcribed, they call it Proſopographia, if a place,

Topographia.

Topographia, if a nation, Chorographia, if the earth Geographia, if the water, hydrographia, if the wind, Anemographia, if a trée, Dendographia, if the time, Chronographia, &c.

Aristoteles ait, neq; vnam duarū rerum, neq; vnius rei duas definitiones esse posse. ὅτε γὰρ ἕνα λυοῦν, ὅτε λύο τοῦ αὐτοῦ ὅρους λυνατὸν εἶναι. Nam cum vnius rei vna natura sit, quæ definitione explicatur, rectissimè à *Galeno* scriptum est, ἔνεσι πάμπολλοι ὁρισμοὶ ποιεῖν ἑνὸς πράγματος ἐν ταῖς φωναῖς μόνον, οὐκ ἐν τοῖς νοήμασι διαφέροντας. Licet plures vnius rei definitiones conficere vocibus tantum differentes, non rationibus.

Quod *Zeno* de Dialectica & Rhetorica dixit, illam pugno, hanc palmæ similem esse, idem de definitione dici & definito potest, idq; multò magis accomodatè. Re namq; sunt eadem, sed alterum euolutum, alterum inuolutum.

M. Lambard. Iust. lib. 1. cap. 16. Budæus in his Gréeke Commentaries is of the opinion, that the French worde Arrest, which with them signifieth a decrée or iudgement of a court, toke beginning of the Gréeke ἀρεσὸν, that is Placitum, and, as wée might say, the pleasure or will of a Court. And albeit that it were not out of our way, to thinke that it is called Arrest, because it stayeth, or resteth the party, yet I beléeue rather that wée receiued the name from the Norman lawes, because wée vse it in the same sence with them: for commonly with vs, an Arrest is taken for the execution of the commaundement of some Court, or of some officer in Iustice. But howsoeuer the name began, An arrest is a certayne restraint of a mans person, depriuing it of his owne will and liberty, and binding it to become obedient to the will of the lawe; and it may bée called the beginning of imprisonment. The precepts and writs of the high courtes of lawe, doe vse to expresse it by two sundry wordes, as, Capias, and Attachias, which signifie to take or catch holde of a man. But this our precept noteth it by the wordes duci facias, cause him to bée conueyed &c. for that the officer hath after a sort, taken him before, in that hée commeth to him, and requireth him to goe to some iustice of the peace.

Ibidem. Suretie of the peace is an acknowledging of a bond to the prince, taken by a competent iudge of recorde for

the képing of the peace, and it is called suretie of the word securitas, because the partie that was in feare, is thereby the more quiet and secure.

Idem. Lib. 1. cap. 13. The Latine men vse, Recordor, when they will signifie, to kéepe in minde, or to remember, in which sence the poet sayd:

Si ritè audita recordor.

And after the same sence also doth our lawe vse it: For Recordes bée nothing els but memorials or monumentes of thinges donne before Iudges that haue credite in that behalf.

One may affirme a thing, and another may deny it, but if a Record once say the word, no man shall be receaued to auerre or speake against it. For otherwise there would neuer bée any ende of controuersies.

Stamford. lib. 2. cap. 38. Sanctuary est vn lieu priuilege per le prince, ou soueraigne gouernour, pur le safegard de vie de home qui est offẽdour, et est foũdue sur la ley de mercy, et sur le grand reuerence, honor et deuotion, que le prince ad al lieu, deins quel il granta tyel priuiledge, &c. An issue is sayd to bée status causæ, it is called Issue, of an issue in some vessell, whence onely the water is voyded &c.

Elenchs of all definitions.

First, if it want where it should bée: Then if it bée, but bée false: or bée obscure, as that of the snayle, where the definition is more obscure than the thing defined, and that in Pacuuius, Testudo est quadrupes tardigrada, agrestis, humilis, aspera, capite breui, ceruice anguina, aspectu truci, euiscerata inanima, cum animali sono.

Arist. in 6. Top. compareth an obscure definitiõ to the pictures of old bungling paynters, τῶν ἀρχαίων γραφέων; which had the names of the things paynted, put ouer the pictures, or else they would neuer haue béene taken to bée the pictures of such things.

Homo est animal bipes, implume, quod erectum ingreditur, q. Plato. And the next day after comes mée Diogenes with a cocke pluckt cleane without feathers, and throwing him into Plato his schole, sayd, Ecce hominem *Platonicum*, lo héere is Platoes tall man, a two-foted creature, without feathers, going vpright.

Agayne

Agayne, if it eyther want, or haue too much.

In an vnperfect definition, the conuersion and recipro-cation of it with the thing so defined is not precisely to be exacted: but in the other, it is necessarily required, the want whereof is an infallible token of a sophisticall definition.

The 18. Chapter.

Of the argument borrowed.

SIth wee haue sufficiently discoursed of the nature of inherent arguments, it now remayneth to speake of the borrowed elsewhere, which is properly called a testimony or witnesse, and is only fit for proofe or confirmation. First, a testimony is either a famous sentence, as prouerbs, &c. or a law. A law is eyther naturall, or written.

Secondly a testimonie is either simply propounded, as an edict, &c. or written before.

Thirdly, a testimony is either with oath, or without oath. So much of the common affections of a testimonie: the specials follow.

A testimonie is either of God, or of man. Of God eyther immediately, or by prophetes, Aungels, &c. of this kinde bee diuinations, &c.

That of man, argueth not of it selfe, but by the vertue of some inherent argument: and in exquisite searching out of the truth of any thing, is but of small force, but in ciuill affayres it much preuayleth, when the testimony of any man is beleeued, by reason of his vertue, wisedome, &c. which indeed bee inherent arguments.

In May, the Fox would proue himselfe kynne to the Kid, because his grandsyre tolde him so.

And if that my Grandsyre tolde me be true,
Siker I am very sib to you.

Morrell in July.

Besides (as holy fathers sayne)
there is a hilly place,

Where *Titan* riseth from the mayne,
to ren his dayly race.

And Thomalyn in July vseth a prouerbe to confute Morrell, the commender of hils.

Ah, God shield man, that I should clymbe,
and learne to looke aloft,
This reede is rife, that oftentime
great clymbers fall vnsofte. And agayne,
To kerke the nar, from God more far,
hath beene an olde sayd saw,
And he that striues to touch a star,
oft stumbles at a straw.

Mans testimony is eyther of one man, or of many. That of one, is eyther obligation or confession. To obligation bee referred pledges or sureties. So in August the two shepeheards, Perigot and Willy, for want of better arguments to proue their skill in singing, lay downe wagers, the one a cuppe, the other a spotted lambe. This is commonly called the fooles argument.

Willy. Then loe, *Perigot*, the pledge which I plight,
A mazer ywrought of the maple warre,
Wherein is enchased many a faire sight
Of Beares and Tygers, that maken fierce warre,
And ouer them spread a goodly wyld vyne,
Entrayled with a wanton yuy twyne.
Thereby is a lambe in the wolues iawes,
But see how fast renneth the shepheards swayne,
To saue the innocent from the beasts pawes,
And here with his sheepehooke hath him slayne.
Tell mee, such a cup hast thou euer seene?
Well mought it beseeme any haruest queene.

Perigot. Thereto will I pawne yonder spotted lam,
Of all my flocke there nis syke another,
For I brought him vp without the dam,
But *Colyn Clowt* raft me of his brother;
That he purchaste of mee in the playne field.
Sore against my will was I forst to yeelde.

I remember Diggon in September sweareth by his soule,

soule, to giue credite to yis assertion, which I should haue put before.

They say they com to heauen the nigher way,
But by my soule I dare vndersay,
They neuer set foot in that same troade,
But balke the right way and strayen abroade.

Maister Plowden Fol. 5. a. b. Et quant al distinction de Brytton parenter inheritance et purchase, sir ieo n'ay grande regarde a ceo, car son lyeur conteigne mults errours.

Mes le lyeur de Lyttleton, que est solonque le primer edition, en que les nouels additions sont omise, que est le verey et pluis sure register del fundaments et principles de nostre ley, define, quod fœdum simplex idem est quod hæreditas legitima vel pura. Et issint il prist chescun fée simple deste inheritance. Et il dit que ceo parolle, inheritance, n'est solement entende lou home ad terre per discent, mes auxi chescun fée simple, ou tayle, que home ad per son purchase, est inheritance tamen vis verbi hoc non vult.

Fol. 161. b. Et le cauillation oue les parols contrary al simple entent, come Tullius dit en son lyuer de officijs, est calumnia quædam & nimis callida, sed malitiosa iuris interpretatio, ex quo illud, summum ius, summa iniuria. Come il mist exemple de vn que auoyt prise truce pur 130 iours oue son enemy, et en le nuyct il destruist et depopulate ses possessions pur ceo, come il dit, le truce fuit pur iours, et nyent pur les nuytes. Lequel Tullius accompt mere iniury et iniustice.

Fol. 321. b. Et ialemeins fuit dit per Gerrard que en le lyuer appelle expositiones vocabulorum, que fuit mise en print 40 ans passe, il est declare que mynes de oze et argent en quecunq; terres, que ils sont, afferont al roys del ceo realme. Issint Wray dit, que Hesket apprentice que fuit bien apprise en le ley, en son lecture extant sur lestatute de charta foreste. affirmast, que si fueront mynes de oze et argent en terre del subiects deins le forest, que ceux afferont al roy. Issint il dit, que il auoyt vieu les leyes de S. Edward le Confessor, en queux fuit conteigne, quod Thesauri de terra pertinent domino regi. Et issint dit Barham del leys William conqueror,

queur il auoyt view, queur auoyent semblables parols.

The offering of triall and proofe, belongeth to this place, as when a man seeing his words not beleeued, biddeth them trie and then trust, as in Terence of the boy, fac periculum in literis, fac in musicis, fac in palestra: quæ liberum scire æquum est, solertem dabo: trie the boy in learning, try him in singing, trie him in wrestling: I will vndertake you shall finde him sufficient in whatsoeuer belongeth to a free borne boy.

Annotations.

ADrianus rectè rescripsit, se testibus, non testimonijs crediturum, itaq; testium dignitas consideranda est: neq; enim quia affirmatum sit, aut negatum, ideo erit, aut non erit, *Arist.* de interpret: but because he that spake it, was so honest and wise a man, as that hee woulde not affirme an vntruth. Arist. 20. Rhet.

God is to be beleeued without exception, because God spake it: but men are so much either more or lesse credited, by how much their behauiour & learning is more or lesse esteemed. Therefore the Pythagorians were very foolish in thinking their maister Pythagoras so wise, as that it were a sufficient argument, the thing were so, because Pythagoras said it was so, αυτος εφἁ ipse dixit: ipse autem erat *Pythagoras*. Those men, saith Plato in Protagoras that vse the authoritie of others instead of argumentes of their owne, are like to sely soules of the country, when they keepe their wakes: quùm enim propter inscitiam nequeant inuicem propria voce suisq; sermonibus ipsi colloqui, mercede exhibita tibicines introducunt, vt aliena voce, id est tibiarum flatu, conuiuium transigant. Vbi autem boni, præclariq; & eruditi viri conueniunt, neq; tibicines, neq; saltatrices, neq; cantatrices vllas videas, sed voce propria, remotis ijs nugis iociscq, conuiuium celebrare & alternis interrogationibus responsionibusq; modestè disserere, etiamsi vinum abunde bibant. And in Gorgias hee saith truely, that in these borrowed testimonies there is no reason or perswasion, but rather violence and compulsion. Therefore, in Charmide, he biddeth vs consider,

ſtoer, not who ſpeaketh, but how true that is which is ſpoken. So ſayde Ariſtotle of his owne mayſter Plato, Amicus *Socrates*, amicus *Plato*, magis amica veritas. I loue Socrates and Plato well, but I like the truth better. So in 5. E. 4. 112. eſt dit, que precedents et courſe ne rule le ley, mes le ley rulera eux. Et pur ceo la fuit dit, que vn vtlagary fuit reuers, quia il fuit ad Com. Lancaſter ibidem tent. et ne dit apud Lancaſter, ou tiel lieu certeyne, a que le ibidem poet eſtre refer, nient obſtant que fueront 100 precedent de cel retorne. Donq; à fortiori, d'un precedent, qnia vna hirundo non facit ver. 1. & 2. M. 14. Dyer.

Canons.

Yéere, they are vſually wont to ſay, Vnicuiq; in ſua arte perito, credendum eſt. Euery man is to bée beléeued in that art which hée profeſſeth, and wherein hée hath ſkill and experience.

The Rhetoricians diſpute with, and againſt extort teſtimonies, as preſent occaſion is euer offered vnto them.

In our law, twelue bée choſen and ſworne; their verdict is quaſi verèdictum. The ſuſpected men may bée ouſted by challenge. Yéerevpon wée haue challenge peremptory, challenge per cauſe, &c.

Maiſter Lambard Iuſt. But eſpecially there ought to appeare ſuch Iurors, as be returned by the ſhiriffe, and warned by his bayliffe, whether it bée for enquiry or tryall: and in this behalfe, both the commiſſion, the common forme of the precept, and the Law it ſelfe (11. H. 4. cap. 9.) willeth that they ſhould bée probi & legales homines. For if any of them be diſcredited in Law, as by attainder in conſpiracy, attaint, Decies tantùm, ſubornation of periury, or ſuch like, they bée not probi, and their preſentment is voyde by it, vnleſſe there bée 12. beſides them, that are not ſo blemiſhed. Agayne, if they bée outlawed, abiured, condemned in a Præmunire, or attaynted of treaſon, felony, or ſuch like, then bée they not legales, and their preſentment is meerely voyde alſo, as it may bée gathered vpon the caſe. 11. H. 4. 41.

And women, infants vnder fourtéene yéeres of age, aliens, and ſuch as bée within orders of the miniſtery of the clergy,

cannot bée impannelled amongst others. Generally alss, these Iurors ought either to bée inhabiting within the shire, or els to haue landes there: for, the commission willeth, that they should be such per quos rei veritas melius sciri poterit: which must nédes bée vnderstoode of such, as haue cause to know the countrey: and the precept is vsually according to the same forme. But especially in the countie Palatine of Lancaster, each Iurour ought to haue to the yearely value of fiue poundes by order of the statute. 33. H. 6. ca. 2. Now by 27. Elis. euery Iuror must haue iiij. pound by the yeare.

But these men bée not truely Iurors, till they bée sworne, as their name pretendeth, and otherwise their presentment is vtterly voyde.

Each Iury of Enquiry ought to conteine twelue in number at the least, & if there bée 18. or moe, it shal not bée amisse. Yea the common order with vs is, to haue them of an odde number, as 17. 19. or 21. to the ende (as it séemeth) that if they shoulde dissent in opinion somewhat equallie, yet there should bée alwayes one, to wey downe the side, and cast the ballance: but if 12. of them doe agrée, the gaynesaying of the residue cannot hinder the presentment. Les Iurors tryeront le fayt, et nemy le ley, quia sont ignorants: mes les Iudges le ley, itaq; trauers est prise sur le matter in fayt et non sur le matter en ley. Vide Plowden. Fol. 231.

Fortescue, Lord Chauncellor, in Henry the sixt his time, preferreth this order of triall before that vsed in the Ciuill Law. His comparison is to this effect.

Si coram Iudice contendentes, ad litis perueniant contestationem super materia facti (quam legis Angliæ periti exitum placiti appellant) exitus huiusmodi veritas per leges ciuiles, per testium depositionem probari debet, in qua duo testes idonei sufficiunt. Sed per leges Angliæ veritas illa non nisi duodecim hominum de vicineto vbi factum huiusmodi supponitur sacramento, Iudici constare poterit: and afterward.

Per leges ciuiles pars quæ in litis contestatione affirmatiuam dicit, testes producere debet, quos ipsemet ad libitum suum nominabit. Negatiua autem probari non potest, videlicet directè: licet posit per obliquum. Ex illis quippè

creditur

creditur esse potentiæ, minoris quoq; industriæ, qui de omnibus quos noscit hominibus, duos reperire nequit ita conscientia & veritate vacuos, vt timore, amore, vel commodo, omni velint contraire veritati. Hos potest tunc ipse in testimonium producere in causa sua; & si contra eos pars altera dicere velit, vel contra eorum dicta, non semper continget eos, eorum quoq; mores aut facta apud contradicere volentem agnosci, vt ex eorum fœditate & vitijs testes illi possint reprobari. Et dum eorum dicta affirmatiuam contineant, non facilè poterunt illa per circumstantias aut obliqua alia improbari. Quis tunc poterit suorum aut suijpsius sub lege tali viuere securus, dum cuilibet sibi inimicari volenti lex tale præstat subsidium? Et qui iniqui duo tam incauti sunt, quod facti de quo ipsi examinabuntur in iudicio, non, antequam in testes producantur, occultè fingant imaginem & figuram; componant quoq; eidem omnes circumstantias, quales sibi affuissent, si illud in veritate constitisset? Prudentiores namq;, vt dicit Dominus, sunt filij huius mundi, quam filij lucis. Sic *Iesabel* sceleratissima, testes duos filios *Belial*, contra *Nabot* in iudicio produxit, quo ipse vitam perdidit; & *Achab* rex, eius vineam possidebat. Sic duorum senum etiam Iudicum testimonio, mortua fuisset pro adulterio vxor castissima *Susanna*, si non eam miraculosè liberasset Dominus inexcogitabili prudentia, quam à natura non habuit puer iunior nondum ætate prouectus. Et si ipsos depositione sua varia conuicerat puer ille esse falsarios, quis nisi solùm Dominus nouisse poterat eos in dictis suis taliter variaturos? dum non de arboris natura sub qua imputatum facinus fiebat, lex aliqua eos arctabat reminisci, quia testes sceleris cuiusq; considerare non putantur omnia vmbracula & cætera vicina illi facto, quæ ad aggrauationem vel detectionem criminis illius minimè operantur. Sed dum de arborum speciebus, Iudices illi nequam vltrò deponentes variabant, eorum dicta ipsos veritatis fuisse præuaricatores demonstrabant, quò & talionis pœnam meritò incurrerunt. **And so forth in the example of one** Iohn Fringe, **that at his death protested hée was not guilty of the fault, whereof two men accused him.** Et alibi. Non igitur contenta est lex Franciæ, in criminalibus vbi mors imminet, reum testibus conuincere,

ne

ne falsidicorum testimonio sanguis innocens cõdemnetur. Sed mauult lex illa reos tales torturis cruciari, quoúsq; ipsi eorum reatum confiteantur, quam testium depositione, qui sæpè passionibus iniquis, & quandóq; subornatione malorum ad periuria stimulantur. Quali cautione & astutia, criminosi etiam & de criminibus suspecti tot torturarum in regno illo generibus affliguntur, quod fastidit calamus ea literis designare. Quidam verò in equuleis extenduntur, quo eorum rumpuntur nerui, & venæ in sanguinis fluenta prorumpunt. Quorundam verò dinersorum ponderum pendulis dissoluuntur compagines & iuncturæ: & quorundam gaggantur ora, vsq; dum per illa tot aquarum infundantur fluenta, vt ipsorum veriter montis tumescat more, quo tunc venter ille fossorio vel simili percussus instrumento, per os aquam illam euomat ad instar balęnæ quæ cum halecibus & alijs pisciculis mare absorbuit, aquam despumat, ad altitudinem arboris pini. Piget, proh pudor, iam penna exquisitorum ad hæc cruciatuum enarrare immania. Nam eorum variatus numerus vix notari poterit magna in membrana. Leges etiam ipsæ ciuiles deficiente testium copia, in criminalibus, veritatem consimilibus extorquent tormentis, qualiter & faciunt etiam quamplurima regna. Sed quis tam duri animi est, qui semel ab atroci tanto torculari laxatus, non potius innocens ille omnia fateretur scelerum genera, quam acerbitatem sic experti iterum subire tormenti; & non semel mori mallet, dum mors sit vltimum terribilium, quàm totiens occidi, & totidem gehennales furias morte amariores sustinere? **Then followeth an example of one that by torture confessed thinges vntrue &c.** Taliter, proh dolor, & quamplures alij miseri faciunt, non veritatis causa, sed solùm vrgentibus torturis artati. Quid tunc certitudinis resultat ex confessionibus taliter compressorum?

Cæterùm, si innocens aliquis non immemor salutis æternæ in huiusmodi *Babylonis* fornace, cum tribus pueris benedicat Dominum, nec mentiri velit in perniciem animi sui, quo iudex eum pronunciat innocentem, nonne eodem iudicio iudex ille, seipsum reum iudicat omnis seuitiæ & pœnarum quibus innocentem afflixit? ô quàm crudelis est lex talis, quæ dum innocentem damnare nequit, iudicem ipsum condemnat?

Et

Et alibi. Prętereà si ex contractibus illatisue iniurijs, vel hæreditatis titulo, ius accreuerit homini, agendi in iudicio, si testes non fuerint, vel si qui fuerint, moriantur, succumbet ipse agens in causa sua, nisi ius suum probare valeat iueuitabilibus coniecturis, quod facere crebrò non contingit. Quare de dominijs & alijs possessionibus iure ciuili regulatis similiter & in omnibus actionibus cadentibus sub eodem iure, actiones agentium pro defectu testium quampluries suffocantur, ita quod earum vix pars media optatum finem sortiatur, &c.

The order of our common law followeth.

Regnum Angliæ per comitatus, vt regnum Franciæ per Balliuatus distinguitur, ita vt non sit locus in Anglia, qui non sit infra corpus alicuius comitatus. Comitatus quoq; diuiduntur in Hundreda, quæ alicubi Wapentakia nuncupantur. Hundreda verò diuiduntur per villas, sub quarum appellatione continentur & burgi atq; ciuitates. Villarum etenim metæ non muris, ædificijs aut stratis terminantur, sed agrorum ambitibus, territorijs magnis, hamletis quibusdam, & multis alijs, sicut aquarum, boscorum, & vastorum terminis, quæ iam non expedit nominibus designare, quia vix in Anglia est locus aliquis qui non infrà villarum ambitus contineatur, licèt priuilegiati loci quidam infrà villas, de eisdem villis pars esse non censentur. Prętereà in quolibet comitatu est officiarius quidam vnus regis vicecomes appellatus, qui inter cætera sui officij ministeria, omnia mandata & iudicia curiarum regis in comitatu suo exequenda exequitur. Cuius officium annale est, quo ei post annum in eodem ministrare non licet, nec duobus tunc sequentibus annis ad idem officium reassumetur. Officiarius iste sic eligitur. Quolibet anno in crastino animarum, conueniunt in Scaccario regis omnes consiliarij eius, tam domini spirituales & temporales, quàm alii omnes iusticiarii, omnes barones de Scaccario, clericus rotulorū, & quidam alii officiarii, vbi hi omnes cōmuni assensu nominant de quolibet comitatu tres militēs vel armigeros, quos inter cęteros eiusdem comitatus, ipsi opinantur melioris esse dispositionis & famæ, & ad officium vicecomitis comitatus illius melius dispositos: ex quibus rex vnum tantum eliget, quem per literas suas patentes constituet vicecomitem comitatus de quo eligitur,

gitur, pro anno tunc sequente. Sed ipse antequam literas illas recipiat, iurabit super sancta Dei euangelia, inter articulos alios quod benè, fideliter & indifferenter exercebit & faciet officium suum toto anno illo, neq; aliquid accipiet colore aut causa officij sui ab aliquo alio quàm à rege. His iam sic prę-suppositis, ad eorum quæ quærimus, indaginem procedamus.

Quotiescunq; contendentes in curijs regis Angliæ ad exitum placiti super materia facti deuenerint, concitò, Iustitiarij per breue regis scribunt vicecomiti comitatus in quo factum illud fieri supponitur, quod ipse venire faciat coram eisdem Iustitiarijs ad certum diem per eos limitatum, duodecim probos & legales homines, de vicineto, vbi illud factum supponitur, qui neutrum partium sic placitantium vlla affinitate attingunt, ad recognoscendum super eorum sacramenta, si factum illud factum fuerit, sicut vna earundem partium dicit, vel non, sicut altera pars negat. Quo adueniente die, vicecomes returnabit breue prędictum coram eisdem Iustitiarijs vna cum panello nominum eorum quos ipse ad hoc summoniuit, quos, si venerint, vtraq; pars recusare poterit, dicendo quod vicecomes panellum illud fauorabiliter fecit pro parte altera, viz. de personis nimis indifferentibus. Quæ exceptio, si comperta fuerit vera per sacramentum duorũ hominum de eodem panello ad hoc per Iustitiarios electorum, mox panellum illud quassabitur, & Iustiriarij tunc scribẽt coronatoribus eiusdem comitatus, quod ipsi nouum faciant panellum. Quod cùm fecerint, si & illud consimiliter repertum fuerit viciatũ, etiam & illud quassabitur: & tunc iustitiarij eligent duos de clericis curiæ illius, vel alios de eodem comitatu qui in præsentia curiæ per eorum sacramenta facient indifferens panellum, quod deinde per nullam partiũ illarum calumniabitur. Sed cùm venerint sic impanellati in curiam, quęlibet partium excipere potest contra personam cuiuscunq; eorũ, sicut & potest in omni casu & omni tempore, quo aliquis qualitercunq; impanellatus comparuerit in curia super veritate exitus huiusmodi iuraturus: dicendo, quod impanellatus ille est consanguineus vel affinis parti alteri, vel amicitia quacunq; tali sibi coniunctus, quod indifferens ipse non est ostendere inter eos veritatẽ: qualium exceptionum tot sunt genera & species, quod non

licet

licet eas breui explicare sermone : quarum si aliqua reperta fuerit vera, non tunc iurabitur ille contra quem exceptio illa proponitur, sed cancellabitur nomen eius in panello. Sic quoque fiet de omnibus nominibus impanellatorum, quousq; duodecim eorũ iurentur ita indifferentes, quod versus eos neutra partium habeat aliquam materiam calumniæ. Horum autem duodecim ad minus quatuor erunt de hundredo vbi villa in qua factũ de quo contenditur, fieri supponitur, sita est. Et quilibet iuratorũ huiusmodi habebit terras vel reditus pro termino vitæ suæ ad minùs, ad valorem annuũ 40. s. (now 4. li. by stat. 27. Eli.) Et hic ordo obseruatur in omnibus actionibus & causis criminalibus, realibus & personalibus, pręterquam vbi damna vel debitum in personalibus non excedunt 40. marcas monetæ anglicanę. quia tunc non requiritur, quod iuratores in actionibus huiusmodi tantùm expendere possint. Habebunt tamen terram vel reditũ ad valorem competentem iuxta discretionẽ iustitiariorum, alioquin ipsi minime iurabũtur, ne per inediam & paupertatem iuratores huiusmodi de facili valeant corrumpi & subornari.

Et si per tales exceptiones, tot iuratorum nomina in panello cancellentur, quod non remaneat numerus sufficiens ad faciendam inde iuratam, tunc mandabitur vicecomiti, per breue regis, quod ipse apponat plures iuratores : quod & sæpiùs fieri potest, ita quod inquisitio veritatis super exitu placiti, non remanebit ob defectum iuratorum &c.

Iuratis demùm in forma prędicta duodecim probis & legalibus hominibus habentibus vltra mobilia sua, possessiones, vt prędicitur sufficientes, vnde eorũ statum ipsi continere poterint, & nulli partium suspectis nec inuisis, sed ijsdem vicinis, legetur in Anglico coram eis per curiam totum recordum & processus placiti quod pendet inter partes : ac dilucidè exponetur eis exitus placiti de cuius veritate iurati illi curiam certificabunt. Quibus peractis, vtráque partium per se vel consiliarios suos in præsentia curiæ referet & manifestabit eisdem iuratis, omnes & singulas materias & euidentias quibus eos docere se posse credit veritatem exitus taliter placitati. Et tunc adducere potest vtraq; pars corã eisdem iustitiarijs & iuratis omnes & singulos testes quos pro parte sua

ipſa producere velit, qui ſuper ſancta Dei euangelia per iuſticiaros onerati, teſtificabuntur omnia quæ cognoſcunt probantia veritatem facti de quo partes contendunt. Et ſi neceſsitas exegerit, diuidentur teſtes huiuſmodi, donec ipſi depoſuerint quicquid velint, ita quod dictum vnius non docebit, aut concitabit eorum alium ad conſimiliter teſtificandum. Quibus conſummatis, poſtquàm iuratores illi deindè ad eorum libitum ſuper veritate exitus huiuſmodi, deliberatione quantam ipſi optabunt, colloquium habuerint, in cuſtodia miniſtrorum curiæ in loco eis ad hoc aſsignato, ne interim eos aliqui ſubornare valeant, reuenient illi in curiam, & certificabunt iuſtitiarios ſuper veritate exitus ſic iuncti, in præſentia partium, ſi intereſſe velint, & maximè, petentis. Quorum iuratorum dictum per leges Angliæ, Veredictum nuncupatur; & tunc ſecundū huiuſmodi veredicti qualitatem, iuſtitiarij reddent & formabunt iudicium ſuum. Tamen, ſi pars altera, contra quam veredictum huiuſmodi prolatum eſt, conqueratur ſe per illud iniuſtè eſſe grauatum, proſequi tunc poteſt pars illa verſus iuratores illos, & verſus partem quæ obtinuit, breue de attincta. Virtute cuius, ſi compertum fuerit per ſacramentum viginti quatuor hominum in forma prenotata retornatorum, qui multò maiora habebunt patrimonia quàm iuratores primi, quod ijdem iuratores primi falſum fecerunt ſacramentum, corpora eorundem primorum iuratorum priſonæ regis committentur, bona eorum confiſcabuntur, ac omnes poſſeſſiones eorundem in manus regis capientur; domus quoq; eorum & ædificia proſternentur, boſci ſuccidentur, & prata arabuntur, ipſi etiam iuratores primi extunc infames erunt, nec alicubi recipientur in teſtimonium veritatis, & pars quæ ſuccubuit in priori placito, reſtituetur ad omnia quæ ipſe perdidit occaſione eius. Quis tunc, etſi immemor ſalutis animæ ſuæ fuerit, non formidine tantæ pœnæ, & verecundia tantæ infamiæ, veritatem non diceret ſic iuratus? Et ſi vnus forſan tantus ſui honoris prodigus eſſe non pepercerit, aliqui tamen iuratorum tantorum famam ſuam non negligent, neq; bona & poſſeſsiones ſuas taliter diſtrahi patiētur propria culpa ſua. Nonne iā hic ordo reuelandi veritatem potior & efficacior eſt, quàm eſt proceſſus qualem pariunt ciuiles leges? Non hîc pereunt cauſæ aut ius alicuius

per

per mortem, aut ob defectum testium, non hîc producuntur testes ignoti, conductitij, pauperes, vagi, inconstantes, aut quorum conditiones vel malitiæ ignorantur. Vicini sunt testes isti de proprijs viuere potentes, famæ integræ, & opinionis illesæ, non per partem in curiam ducti, sed per officiarium nobilem & indifferentem electi, & coram iudice venire compulsi. Isti omnia sciunt quæ testes deponere norunt, & isti testium productorum agnoscunt constantias inconstantiasq; & famam. Quid vltra? Verè nihil est quod veritatem dubij de quo contendi poterit, detegere valebit, quod iuratoribus talibus latere quomodolibet potest aut ignorari, dummodo possibile sit, illud venire posse in cognitionem humanam.

And then after, de causis criminalibus. Si reus quispiam de felonia aut proditione in Anglia rettatus, crimen suum coram iudicibus dedicat, mox vicecomes comitatus vbi facinus illud commissum est, venire faciet coram eisdem iudicibus viginti quatuor probos & legales homines de vicineto villæ vbi illud factum est, qui rettato illi nulla affinitate attingunt, & quorum quilibet centum solidatus habeat terræ & reditus, ad certificandum iudices illos super criminis illius veritate. Quibus comparentibus, rettatus ille eos calumniare potest eadem forma qua in actionibus realibus fieri debere superius describitur. Et insuper reus ipse, in fauorem vitæ suæ calumniare potuit olim trigintaquinq; homines quos ipse maximè formidat, qui ad eius calumniam cancellabuntur in panello, aut signis talibus notabuntur, quod (vt verbis legis vtar) illi super eum non transibunt, licet ipse nullam causam assignare sciat exceptionis seu calumnię suę. Quis tunc mori possit iniquè in Anglia pro crimine, cùm tot iuuamina habere ille poterit ob fauorem vitę suę? Et non nisi vicini eius, probi & fideles homines, versus quos ipse nullam habet materiam exceptionis eum condemnare poterunt? Mallem reuera viginti facinorosos mortem pietate euadere, quàm iustum vnum iniustè condemnari.

Nec tamen reum quempiam sub hac forma, reatus sui pœnam euadere posse suspicandum est, dum eius vita & mores timori deinceps erunt eis qui eum sic purgarunt à crimine.

In hoc equidem processu nihil est crudele, nihil inhuma-

num, nec lædi poterit innocens in corpore aut membris suis, quarè nec formidabit ille calumniam inimicorum eius, quia non torquebitur iste ad arbitrium ipsorum. Igitur sub hac lege viuere, quietum & securum est &c.

Somuch I thought good to borrowe of Forteſcue, concerniug witneſſes and teſtimonies, toztures, rackinges, and ſuche other græuous & extort confeſſions vſed, as he ſaith in France and elſwhere. The rudeneſſe of the time wherein he wzate, muſt excuſe the mayner of his wziting, which is not ouer elegant.

Reade the ſtatutes made, 17. E. 2. and there ſée the othe of a villeine doing fealtie vnto his Lozd: from whence Littleton, hath ſet the pzeſcript fozmes of oathes to be vſed of frémen in dwing homage, and fealtie to their Lozds, partition, 91. 85. 86. 87. 88. 89.

Of the wziting, enſealing, and deliuering of deedes and euidences, Parkins hath a ſpecial tractate cap. 20. Where the miſdating, raſing, interlyning, adding new letters vpon the old, hãging in the ſmoke, bzeaking of ỹ ſeale, vtter quaſhing of the pzint, heating of the waxe and faſtning therof to the Labell from whence it was once ſeuered, with other ſuch imperfections, make the déede ſuſpcious.

Of the auncient manner of ſealing with croſſes and ſuch markes, of Edward the thirds faſhion in biting the waxe with his teeth, reade the expoſition of our Lawtearmes.

Elenchs.

A falſe teſtimonie is deſcried by the wickedneſſe, and malicious nature of him that gaue witneſſe. The wozlde is full of falſe fozſwozne knaues, deſperate careawaies, and raſcallike ſhwaſhbucklers, that bozrow citizens gownes to ſell hired oathes, to the vtter ſubuerſion of Juſtice, and vndwing of wel-meaning neighbours. So that no one thing is mozе common then that damnable ſpéech, Iuraui lingua, mentem iniuratam gero, and Iura, periura, ſecretum prodere noli.

The 20. Chapter.

Of compared argumentes.

Hitherto then of the first diuision of argumentes. Now secondly, an argument is eyther simple, or compared. Simple is that which is simply considered without any respect of comparison. Compared is that which is compared with another. Compared arguments are sometimes briefly expressed by plaine and euident signes, and sometimes largely distinguished by two partes, whereof the first is called the proposition, which propoundeth and putteth downe the first part of the comparison in the first place: the second is the Reddition, which addeth the second part, and applyeth it vnto the first.

Comparison is eyther in qualitie, or quantitie. Qualitie is that whereby thinges compared are called eyther like, or vnlike.

Like are those which haue the selfe same qualitie: this likenesse is called Proportion, and the thinges like proportionable. The signes be these, like as, euen as, so, and a deniall of the vnlike.

Diggon in September.

They looken big, as Buls that bene bate,
And bearen the cragge so stiffe and so state,
As Cock on his dunghill crowing cranck. Agayne
Well away the while I was so fond,
To leaue the good that I had in hond,
In hope of better that was vncouth,
So lost the dog the flesh in his mouth:

And below.

Thus chatten the people in their steds,
Ylike as a monster of many heads:

The gate of her kiddy in May:

For euen so thy father his head vphelde,
And so his hawtie hornes did he welde.

Piers in May.

Sike mens folly I cannot compare,

Better

Better then to the apes foolish care,
That is so enamoured of her yong one,
And yet, God wot, such cause hath shee none:
That with her hard hold and straite embracing,
Shee stoppeth the breath of her yongling.

Sometimes there bee no notes at all, as,
Thenot in Februarie.

For youth is a buble blowne vp with breath,
Whose wit is weakenesse, whose wage is death,
Whose way is wildernesse, whose Inne penance,
And stoope-gallant age the hoste of greeuance.

The parts of a similitude are sometimes more largely put downe, and that by three partes and degrees of comparison, or els by foure. The first is called a continued similitude, the seconde a distinct and seuered similitude: For the first, Cuddy in Februarie hath this:

The keene could blowes through my beaten hide,
All as I were through the body gryde:
My ragged rontes all shiuer and shake,
As doone high towers in an earthquake.

Where one part must be twise repeated to couple and continue the similitude, thus, As towers shake in an earthquake, so my ronts shake, where this word, shake, is twise mentioned.

Colyn in January vseth a distinct similitude with foure tearmes.

You naked trees, whose shady leaues are lost,
Wherein the byrds were woont to build their bowre
And now are cloathed with mosse and hoarie frost,
Instead of blosmes wherewith your buds did flowre:
I see your teares that from your bowes do rayne,
Whose drops in dreary Isicles remayne.
Also my lustfull leafe is drie and seare,
My timely buds with wailing all are wasted.
The blossome which my branch of youth did beare,
With breathed sighes is blowne away and blasted.
And from myne eyes the drizling teares discend
As on your boughes the Isicles depend.

Fayned similitudes haue like force with others: and here in these similitudes thus largely put downe, Esopicall fables haue very good grace. So Menenius Agrippa vsing the tale of the rebellion betwéene the belly and other partes of the body: and comparing that with the rebellion betwéene the common people and senators of Rome, perswaded those that were fled to the holie hill, quicklie to returne home to Rome, and become conformable citizens.

Maister Plowden. Fol. 31. b. Semblable reason semblable ley.

Fol. 369. b. Et Catlyne resemble le fine per ceo act, al Ianus, quel, il dit, fuit Noe: mes les Romaines sur occasion luy nosme Ianus, et vse de picter luy oue deux faces, vn aspectant arere, s. backward, en respect que il auoit view le former monde que fuit peri per le inundation, et auter, aspectant auant, s. forward, in respect que il comence nouel monde commenceant de le inundation et procedant dillonques en euant. Et pur ceo ils luy appelle Ianus Bifrons et auxi portant clyffe en sa mayne, significant per ceo clyffe son poyar per son generatiõ de renouater le nouel monde. Issint ceo act fait vn inundation, per quel tout former droit deuant le fine serra merge per non claime, car non claime est le fiud et le fine produce nouel generation, quel est le nouel droyt. Car le fine fait nouel droit, et est le commencement de nouel monde, quel procede del temps del fine en auant.

Fol. 272. Et il dit que il y ad diuersitie enter lease conditional, et condition, d'auer lease. Car lease conditional est bone tanques le condition est enfreint, et la le lease va deuant, et le condition vyent apres. Mes en condition d'auer lease, le condition va deuant, et le lease vient apres, et le lease ne serra vnques aiudge destre lease, tanque le condition soit primes performe. Come si ieo graunt a vous que si vous faces tiel chose, vous aueres lease en tiel mon terre, la, il dit, le condition precede le lease, come le nedle precede le file, et sicome le nedle tray le file puis luy, issint fait le condition le lease la.

Fol. 465. a. De cest iudgement, et le cause poyes veyer, (lecteur) que les parolles del ley, ne sont le ley, mes le inter-

nall sence. Et nostre ley, come touts autres leyes, ad deux parts, cestassauoir, carnem & animam. Le letter de le ley est le chaire de le ley, et le sence et reason del ley, est le alme de le ley, quià ratio legis est anima legis. Et le ley poet estre resemble a vn noix, que ad vn test, et vn cerneau deins. Le letter repzesent le test, et le sence le cerneau; et sicome ne serres le meliour pur le noix si arrestes sur le test, nyent pluis serres pur le ley, si arrestes sur le letter. Et sicome le fruyt et profite est en le cerneau, et nient en le test, issint le fruyte et profite de ley est en le sence pluis tost que en le letter, et souent foits quant vous saches le letter, vous ne saches le sence. Car ascun foits le sence ne serra cy large come le letter est, et ascun foits le sence serra pluis large que le letter: et equitie, que en Lattin est appelle, æquitas, amplifie, ou demenuist le letter, come sa direction veult.

Fol. 486. a. Car soyt le atteinder per statute, ou per commen ley, le forfeyture al roy ensue, come le vmbze ensue le corps, come Dyer le terme.

Fol. 529. b. Et il dit, sicome femme que ad recouer dower, ne poet entrer, mes doit auer seisin deliuer a luy per le viscount. Et sicome vn copyholder, a que vn copyhold tenement est discende, doit este admitte per le seigniour auant que il auera seisin in iudgement del ley. Issint cesty que est admitt, ou institute al prebend, parsonage, ou vicarage, ne poet auer seisin, ne est plein incumbent, tanque le archdeacon ad luy induct, ou, si soit prebendary, deuant que le Deane et le chapter del Cathedzall eglise lou sa prebend est, ont luy enstalle.

Annotations.

FAyned similitudes bée very populare and plausible, and haue in them this one good thing, that where as it is somtimes hard to finde out true similitudes, it is an easie matter, to fayne some odde parable. But like examples of things done in déede bée best. Aristo. 2. Rhet. hath that of the bzidled hozse, and hungry flies.

Bracton: descendit ius quasi ponderosum quid, cadens deorsum recta linea, vel transuersali, & nunquam reascendit ea via qua descendit post mortem antecessorum: à latere tamen ascendit

ascendit alicui propter defectum hæredũ inferius prouenientium. Maister Lambard Iust. lib. 2. cap. 1. As a man that hath receiued hurt in his body by a stroake whereof hæ bleedeth freshly, will be content for the present to admit the help of any leeche or surgeon comming next to hand, for the stanching of the bloud and binding vp of the wounde, and yet would more gladly haue vsed the conference of diuers expert surgeons for doing the same if the danger of the hurt woulde haue graunted the time, that will be lost in calling them together: so also, the common counsaile of this realme, finding that the body thereof may bee deeeply wounded in some one member, and perceiuing that some euils must bee resisted at the very first (least otherwise they grow past helpe and ware incurable) hath many times thought it good to commit to one or to a few Iustices of the peace (for that they bee ready and at hand) the stopping of the bloud, as it were, and first dressing of the wound by repressing of force and other outrages that do sodainly arise: and hath yet neuertheless, when as the time and matter will permit, politikely established an assemblie and conference of all the Iustices, at certayne times in a full court and open session.

When it appeareth that the thinges which we compare togither, be like, because that thing wherein they be compared, may be applied to them both; then wee loke whether it be applied to them in equal proportion and quantitie, or vnequall: if in equall, then they bee pares, equall: if in vnequall, then impares, of the which the one is the more, the other is the lesse, which is the comparison of quantitie: therfore I haue put qualitie before quantitie. For it were absurd to aske wheather Higs of Balkot, or Shepheard of Tugford, were the falser knaue, vnlesse it were first graunted that they were both false knaues.

Affectio similium inter se, (vt cæterorum argumentorum) est ἀνάπαλιν καὶ ἐναλλαξ: Inuerse & alterne. Inuerse quando inuertitur ordo propositionis & redditionis tantum, aut etiam terminorum. Itaq; si quædam similia fuerint, inuersè similia erunt, vt aurum ad ignem, sic fides ad periculum, ergo vt fides ad periculum, sic aurum ad ignem, Item ergò, vt periculum,

ad fidem, sic ignis ad aurum. Alternè, quando similitudinis antecedens antecedenti, & consequens consequenti comparatur: si quædam similia fuerint, alternè similia erunt, vt aurum ad ignem, sic fides ad periculum, ergò, vt aurum ad fidem, sic ignis ad periculum.

I haue made a second generall diuision of argumentes, into simple, and compared, as perceauing the nature of comparison to bée incident to euery argument that is not simple.

Canons.

One like argueth an other: as this is in respect of that, so the other in respect of the other: As this is in that, so an other in another.

Of likes there is like reason. Lykes agrre to like.

Vbi eadem ratio, ibi idem ius. 19. H. 6. 18. b. Newton & Littleton, que sont en semblable reason, sont en semblable ley. pag. 301.

Vide 9. H. 6. 24. b. Bab. Home poet deuiser que sa terre serra vendue per les executors, et issint home auera franck-tenement de cestuy que ne auera riens, come home auera fire dun flynte, et vncore null fire est in le flynte. Sic in 19. H. 6. 24. Mark: Executors poyent doner chose que ils n'auoyent, come vn whetstone, que done sharpenes a vn cuttell, et vncore null est en luy.

Si cui simpliciter via per fundum cuiuspiam concedatur vel relinquatur, quà primum viam direxerit, ea demum ire, agere debet, nec amplius mutandæ eius potestatem habet, argumento riui, quem primò qualibet ducere licet, posteaquam ductus est, transferre non licet.

Elenchs.

As a new coate is better than an old: so new friendship, and new wine; these bée not like.

The 21. Chapter.

Of the vnlike.

THe vnlike is that whose qualitie is vnlike. The notes are these, vnlike, differing, otherwise, and the deniall of the like.

Thomalin in July.

But

But nothing such thilke shepheard was,
whome Ida hill did beare:
That left his flocke to fetch a lasse,
whose loue hee bought too deare.

The notes bée oftentimes omitted, and the dissimilitude more fully enlarged.

Colyn in June.

O happy *Hobbinoll*, I blesse thy state,
That Paradise hast found which *Adam* lost,
Here wander may thy flocke early or late:
Withouten dread of woolues to beene ytost,
Thy louely layes here mayst thou freely boste:
But I vnhappy man whome cruell fate
And angry Gods pursue from coaste to coaste,
Can no where finde to shrowde my luckless pate.

Maister Plowden Fol. 76. b. Et quant a ceo que est dit, que en le briefe de droyt, quandò capitalis dominus remisit curiam, que l'assent del seigniour est primes conus, et issint en le Recordare, le clause est, si causa sit vera, aliter non: sir, ceo est bon reason, et nyent semblable a nostre case. Car la, est parcell del inheritance del seigniour d'auer le plée tenus en son court, et d'auer les profites et casualties veignant per ceo, lequel n'est reason a toller de luy sans cause. Mes en nostre case le viscount n'est forsques minister al roy per luy appoynt, et n'ad ascun profite, mes solement allowance pur son labor, s. les fées vsuall pur le execution del brieues: et si auter serue les brieues, le viscount ne perde riens, car il ne prist ascun labor. Et issint si le roy change son officer, n'est ascun tort fayt al officer, et issint il ne poet este semble a les auters cases. So much of Qualitie.

Annotations.

DIssimilitudinis explicatæ redditio, hîc appellatur ἀντιπόδοσις, dissimilis redditio. *Ramus.*

The difference betweene argumentes vnlike and arguments diuers, is, that in diuers, the simple and absolute disagréeing of two thinges is considered: but in vnlyke arguments, the vnlike comparison of foure termes, that is of two

things, and the two qualities of the same. In diuers wee affirme the one, and deny the other after a certeine manner; in vnlykes wee deny neither, but onely distinguish the one from the other by the difference in quality. So that all disagreeable arguments may bee handled as vnlyke, if the diuers qualitie bee respected.

Canors.

Of vnlikes there is vnlike reason.

Vnlikes agree with vnlike, &c.

Examples bee euery where extant of likes and vnlikes in our lawe.

Elenchs.

Golde is tryed in the fire, but not so, is trust and fidelitie in aduersitie. This is false: for these thinges bee like, not vnlike.

The 22. Chapter.

Of the Aequall.

QUantitie is that whereby things compared are sayd to bee of this or that quantitie.

Quantitie is either equall or vnequall. Equal are those whose quantitie is equall. And therefore it is an argument from the equall, when one equall is argued or declared by an other.

The equall hath certeine proper signes, whereby it is often expressed in authors, and may, if they want, alwaies be added, for the playner declaration thereof, as, Equall, Alike, The same that, Alwell as; Somuch howmuch; Somany howmany; No lesse, no greater; and such like. Yet equals are sometimes expressed without any note at all.

Thomalin in July vseth notes.

Al soone may shepheards clymbe to skye,
that leade in lowly dales,
As gotheard proud that sitting hye
vpon the mountaine sayles.

Willy in August.

Neuer

Neuer dempt more right of beauty I weene
The shepheard of Ida, that iudged beauties queene.

Maister Plowden Fol. 15. a. Car come proprement come il appent al office del brasier en l'auter case a weyer et metter en fiew le dit belle, ou al office del taylor, a shaper le panne; cy properment il appent al office del collector a weyer chose pur que le subsidie serroyt pay.

Fol. 7. a. Jlsint si home est tenus in vn obligation sur condition de enfeoffer I. St. et il fayt lease pur ans, et release a luy en fee, il ad performe le condition, coment que il n'ad performe les parolles. Et vncore les parolles d'un condition d'obligation doyent esse performe cy straytment come les parols dascun statute: mes entant que l'entent et effect est performe et ceo que counteruaylera les parols, il suffist.

Annotations. Canons.

This Logical quantity is most generally to bee vnderstood. And therefore all those words bee vtterly reiected, which are not ample ynough to expresse the generall nature of this Logicall quantity: As ὑπαρξις, facilis, difficilis, credibilis, incredibilis. Aequè, magis, & minus probabilis; &c. As though no argument were of the more or greater, but that which were rather in, which had more probabilitie, which were more easie: And so in the lesse and equall. If a man will restrayne the generall nature of this quantity in this sort, hee shall finde himselfe intangled with repugnant examples in such sort that for his heart hee shall not bee able to ryd himselfe out. If any thinke I doo but iest, let him reade the third part of Beurhusius, and make a tryall of his owne skill.

Canons.

Of things that be equall, there is equall reason and iudgment.

Of equals, if one eyther bee, or not bee; the other must in like manner bee, or not bee.

Equall things agree with equall.

Such thinges as are equall to any other thing, are also equall among themselues. This holdeth not in vnequals, as 3. and 3. are vnequall to 2. and yet equall among themselues.

If

If you doo either adde or detract equall things from things that bee equall, the whole, or remnant will bee equall.

You shall, as is sayde, sometimes meet with equals without any notes at all, as in Terence.

Quando ego non curo tuum, ne cura meum. Sith I meddle not with thine, meddle not thou with mine.

Agayne, the equall is returned against the equall nowe and then, without any forme.

If any one thing bee, or seeme to bee in some two thinges equally: then if it bee not in the one, it shall not bee in the other, but if it bee in the one it shall bee in the other. For the last part, take this example.

If a tutor must bee faithfull, then also a procurator.

But a tutor must;

Therefore the procurator must also.

Or thus more briefly in a contracted syllogisme called an Enthymeme.

A Tutor must bee faythfull and true,

Therefore a procurator must bee so also.

Other Logicians commonly, to confirme and prooue the consequence in the Enthymeme, bring in the Canon before alleaged out of Aristotle, if any one thing &c. But I had rather say, that this connexed syllogisme is good and artificiall, so that no man ought to doubt of the consequence, which is already determined by the lawfulnes of the syllogisme, which is the onely rule of all consequence and coherence.

Now for the partes of this consequence, I meane the proposition and the assumption; I say, the proposition is true, and that I prooue by the definition of the equall. Because there is one and the same, or equall quantity, that is to say, an equall reason in a tutor, and in a procurator. And as for the assumption, it is allowed by the ciuill law.

Yet wee are not altogether to reiect these rules and Canons, but to vse them in writing and speaking, as certaine corollaries, or fruites of this art: and not to put them downe in the art, for that most of them bee too particular, or doubtful and contingent, and also vnnecessary and superfluous.

The second Canon is this. If two things bee equally in a third;

third; then if the one bée, the other shall bée: if not this, neyther that. As, he vseth to lye, therefore to steale. It is not proper and peculiar to man for to sée, therefore neyther to heare.

The third and last. If two bée equally and indifferently in two, then if this bée not in that, the thirde shall not bée in the fourth: but if that bée, then this also, as in that out of Terence whereof wée spake before, Demea saide to his brother Mitio:

Quando ego, non curo tuum, ne cura meum. Sith I care not for thy sonne, Aeschinus, meddle not thou with my sonne Ctesiphon.

To this place also belonge those consectaries, which procéde from contraries, but are handled by a certaine comparison of equals, as that in Martiall.

Tum seruum scis te genitum blandeq́; fateris
Cum dicis dominum, *Sosibiane*, patrem. Sosibian calleth his father maister, therefore hée confesseth himselfe to bée a seruant.

Arist. 2. Rhet. Iphicrates, when hée saw his yongest son, because hée was bigge and tall, preferred to office; said thus. If you take great boyes for men; you will surely make litle men boyes.

4. E. 4. 33. b. Ardern. En precipe vers vn que n'ad riens in le dñ. iour del briefe, mes puis il enter in le terre ou purchase ceo, ore per son fait demesne il ad fait le briefe bon. Donq; come le fait le tenant fait mal briefe bon, per mesme le reason, le fait le demandant fra vn bon briefe male, come en le case al barre, si le demandant enter en parcell del demaunde pendant le plée ou briefe.

Choke in 8. E. 4. 21. b. confuta Markam: Fol. 11. 4. Que sic argua, les parties que submittont &c. ne dischargeront les arbitrors sans notice, Ergò les arbitrors ne chargeront les parties sans notice. A que Choke dit, que ceux ne sont contraries, s. discharger les parties sans notice: et charger les parties sans notice: mes charger les arbitrors sans notice, et discharger eux sans notice sont contraries, car come le charge, ne serra sans notice, issint le discharge ne serra sans notice.

This kinde of arguing is not alwayes effectuall, as a man is mortall, therefore a beast is immortall: it holdeth best when the argumentes be repugnant.

Elenchs.

Martiall in his first booke.

Quod *Alpha* dixi, Codre, penulatorum,
Te nuper aliqua cum iocarer in charta,
Si forte bilem mouit hic tibi versus,
Dicas licebit *Beta* me togatorum.

These bee not equall. For although Alpha and Beta seeme neighboures in the Greeke Alphabet, yet they are nothing equall in signification. For Alpha signifieth the chiefe or principall: whereas Beta eyther signifieth that which is second, or els hath no signification at all.

The 23. Chapter.

Of the Greater.

HItherto of Equalles. Unequals are those which haue not the same quantitis.

Unequall is either more or lesse.

The more is that whose quantitie is the greater: The signes bee such as these. Not onely, but also: Rather this, then that: more then: if this, much more that: and also the Grammaticall comparison.

Diggon in September.

For lyker beene they to plucke away more,
Then ought of the gotten good to restore.

And after

Yet better leaue of with a little losse,
Then by much wrestling to leaue the grosse.

Maister Plowden: Fol. 85. a. Le roy poet wayuer vn issue, et demurrer en ley, et contra: et auters prerogatiues il y ad, mes vncore, per misrecitall, ou misuser, ou misconceiuer del action, il serra lye, et sur tiels matters les brieues abateront, come en les cases de comen persons. Et si le ley soit tiel lou le roy est sole partie, à multo fortiori sera tiel, lou auter person est partie oue le roy.

Fol. 160. Et si le habendum donera estate en chose nyent done deuant, et a person nient nosme deuant, et altra l'estate done deuant, adonques il mieux puit declarer le sence del parolles en les premisses en nostre case, et nosmant ou les premisses comprehende le chose en le habendum, come il fait en nostre case. Heere is oftentimes a Logicall gradation, sometimes ioyned with a Rhetoricall climax.

Annotations.

When this note is in the consequent, much more, then it is an argumēt from the lesse, that is, from the lesse probable. But when it is said, Much lesse, it is an argument frō the greater, that is, from the more probable. This is Piscators iudgement. So that all argumentes from the greater should bee negatiue; and, affirmatiue from the lesse. But, as I haue already shewed, so I now affirme againe; that wee may reason as well affirmatiuely as negatiuely frō equals, greater, lesse, and all other arguments whatsoeuer, except diuers. For Ramus doth not tye this Logicall quantity, to such particuler consideration of probability, as Piscator doth imagine and teach out of Aristotle (for if hee so did, contrary examples would confute him) but leaueth it free and generall applyable to any thing whatsoeuer wee can imagine to bee equall, more, or lesse in any respect or consideration whatsoeuer, and as fit for confirmation as confutation.

Co. Litt 260. a Puttend. L. N. pt. 2 cap. 3. sect 13 nota 2.

This Logicall quantity therefore may bee attributed to any thing incident and conuenient to our purpose, as, to dignitie, prayse, reproche, abilitie and power, greatnes, multitude, conueniency, commoditie, opportunitie, facilitie, difficultie, care, neglect, excellencie, vilenes, and in a worde, to whatsoeuer may bee saide to bee equall, more, or lesse.

They that do otherwise determine of this matter, are, as I sayd, wonderfully troubled with repugnant examples, contrary Canons, and variety of opinions.

They that will haue all arguments of the more to bee negatiue and onely fit for confutation; all of the lesse, affirmatiue and seruing for assertion, do put downe these Canons out of the 4. chapter of the 2. booke of Aristotles Topikes.

When two thinges are affirmed of one, if that which is moze like to bée in it, bée not in it, neyther shall that which is lesse lyke, as,

Satrapes, si siet amator, nunquam sufferre eius sumptus queat: nedum tu possis.

If a Lord were her louer, hée could neuer maynteine her; much lesse thou.

When one thing is spoken of two, if it bée not in that, wherein it is moze like to bée, neyther shall it bée in that, wherein it is lesse like to bée: as, If the iust shall scarse bée saued, where will the wicked appeare?

When two thinges are affirmed of two thinges, if that which is moze like to bée in the one, bée not in it, neyther shall the other bée in the other: as, You breake not the saboth day in losing your oxe, and bringing him to the water; therefoze much lesse I in losing the daughter of Abraham from the bands of Satan.

Others, as Cicero, Quintilian, and sometimes Ramus, would haue the greater onely to serue foz confirmation, and the lesse, foz confutation: taking that to be the greater which is the moze excellent, moze difficult and moze incredible: that to bée the lesse which is moze abiect, easie, and soner beléeued: and therefoze they lay downe these Canons.

That which hath fozce in the greater, must haue also fozce in the lesse, as,

Wée haue suffered woze things then these;

Therefoze these that bée lesse may bée bozne of vs.

Ramus in his last edition leaueth this place frée, lose, and at liberty, fit foz affirmations and negations. An affirmatiue argument from the greater, is this out of Virgil, which I put downe last.

If the Troianes haue suffered greater thinges, they may also suffer lesse.

But the Troianes haue suffered greater daungers then these.

Therefoze they may also beare these lesse.

The pzoposition is true, as gathering the lesse of the moze. Foz if the greater bée, the lesse will also bée: and in this

this place, that is called the greater, which is more vncredible and intollerable, as to suffer greater mischiefes.

The sillogisme it selfe is connered, and artificiall, therefore the consequence is good. A Negatiue example is, that in Terence.

If a Lord cannot maintayne her, much lesse thou. But a Lord cannot, therefore neither thou.

Fayned argumentes from the greater haue good grace as in this last example.

From this place bée deriued pretty gradations conioyned sometimes with a Rhetoricall climax, and sometimes alone without it. With it as,

Neq; verò se populo solùm, sed etiam senatui tradidit: neq; senatui modò, sed etiam publicis præsidijs & armis: neq; his tantùm, verumetiam, &c. *Tully* pro *Milone*.

Without any climax, is that in Terence betwéene Thraso and Gnatho.

Th. Magnas verò agere gratias Thais mihi? *Gn*. Ingentes. *Th*. A'in tu? læta est. *Gn*. Non tam ipso quidem dono, quàm abs te datum esse: id vero seriò triumphat.

Where, (although there séeme to bée nothing but a simple exposition) is conteyned a syllogisticall probation, thus.

Thais giueth you exceeding great thankes, and shée triumpheth for ioy, that the gift came from such a giuer.

Therefore, no doubt, shée thanketh you, and is glad that you bestowed this on hir.

Sometimes the greater is vsed without any notes or signes at all, as in that of *Virgill*.

Talibus insidijs periurióq; arte *Sinonis*,
Credita res, captióq; dolis, lachrimisq; coactis:
Quos neq; *Tydides*, nec *Larißæus Achilles*,
Non anni domuêre decem: non mille carinæ.

Counterfayt teares circumuented them, whome neyther the cruell Diomedes, nor fierce Achilles, nor ten yeares warre, nor a thousand ships could ouercome.

Canons.

If a greater quantitie bée (I take quantitie generally, as I sayd before) then the lesse may also bée: but if the greater

bée not, neyther shall the lesse bée.

If the greater and moze valiant cannot perfozme a thing, neyther can the lesse and weaker. But if the greater can doo it, it followeth not straightway that the lesse shall also doe it.

If any chaunce vnlooked foz, happen to the greater, it may moze easily light vpon the lesse and inferiour.

Si grammatica comparatio addatur ei quod comparatur & in qnæstione versatur, reddit idipsum maius, vt id cui comparatur, sit minus, argumentumq; sit a minori: si vero addatur ei, quod ad arguendum adhibetur, argumentum est à maiori, itaq; tam in maiorum quam in minorum collocatione locum habet. Nam comparatiuus & superlatiuus superant positiuum, & id cui adduntur, maius esse significant, vt etiam verba quæ similem vim habent; vt malo, præstat &c. *Waßerleider.*

Falsum est, sayth *Snellius*, quod vulgò dicitur, propositionem hîc continere maius, redditionem minus: imò respiciendum est perpetuò ad id quod arguit, si enim illud est maius, argumentum est à maiori, sin minus, a minori, quocunq; in loco ponatur.

In maiori inest minus. Non debet, cui plus licet, quod minus est, non licere. Vnde illa consectaria: Cui ius est donandi, eidem & vendendi, & cõcedendi ius est, plus enim est donare: (quod profusionem quandam patrimonij continet) quam vendere (quod administrationis & vtilitatis est propter pretium) aut concedere, quod amicitiæ est, vt in commodato aut precario. Et illud, cum quis poterit alienare, poterit & consentire alienationi.

3. E. 4. 24. Danby lest: de 8. H. 6. ca. 9. Done treble dammages vers cestuy que enter oue force, ou teigne oue force. Et ſi lesta: done treble dammages pur l'un tort tantum, à fortiori pur ambideux. Iffint le brieue bon que ioyne vtrumq;.

Hée that may doe the moze may doe the lesse: Doct. Stud. pag. 114.

The

The 24. Chapter.

Of the lesse.

THe lesse is that whose quantitie is lesse. The signes of it are these. Not this onely, but not that. The denying of the equall, or equality: a grammaticall comparison.

In August, Perigot and Willy.

A chapelet on her head she bore,
hey ho chapelet:
Of sweet Violets therein was store,
she sweeter then the Violet.

Thenot in November.

She, while she was (that, was, a wofull word to sayne)
For beauties prayse, and pleasaunce had no peare.

Maister Plowden Fol. 57. a. Et quant a ceo que fuit aurt dit per luy, que si le party serroyt force a monstre coment il auoit tytle, que donques poet estre, qus il auoyt duble tytle (come en le case mise) et le monstrans de ceo fairoyt le plee double: sir, quant a ceo, les plaintifes ont preuent ceo assets bien: car pour doubt que le plee serroit double, ils ount monstre riens: et ore il est pier que double plee: car double plee ad matter de substance, mes icy n'est ascun matter de substance.

There is also a gradation sometimes from the lesse.

Annotations.

AS before in the greater, so heere in the lesse, the common Logicians differ. Some wil haue that to bee lesse which is lesse probable: briefly, when the antecedent in the Enthymeme is lesse probable than the consequent. These men will haue all arguments from the lesse, to bee affirmatiue; and they frame axiomes hereof accordingly, correspondent to those of the greater.

If any thing bee in that, wherein it is lesse like to bee, it shall also bee in that, wherein it is more like to bee, as, If brute beastes loue their young ones, how tender a care

should

should we haue of our children?

If that bee in a thing which is lesse like to bee in it, then that must bee in it, which is more like to bee in it, as, God careth for the fowles of the ayre, therefore much more for you.

If two thinges seeme to bee in two, the one in the other: and that bee in, which is lesse like to bee in, then the other shall bee in the other.

If we, beeing enemies to God bee reconciled vnto him by Christ his death, then

We, beeing now reconciled vnto God, shall be saued by Christ his life.

Others, (whome Ramus followed in two editions of his Logike) take that for the lesse, which is lesse difficult, which may soner bee in the thing: Where they might perceiue, if they marked, that indeede, such things as are more easily in, bee commonly the greater in strength, power, and dignitie. But they, not regarding this, haue framed such an axiome or Canon.

If a thing bee not in that, wherein it is most like to bee, then it shall not bee in that, wherein it is lesse like to bee: so that, according to their mind this place should serue onely for negatiue arguments, they vse this example.

A Lord cannot keepe her, therefore neyther thou.

Where the argument is rather from the greater.

Ramus therefore at the length left this place also generall and appliable aswell to affirmation as negation. An affirmatiue is this out of Ouid.

If thou care for the body, much more wilt thou care for the soule:

But thou doest that: therefore this.

A Negatiue.

If God doe not reiect the sparrowes, much lesse you:

But he contemneth not them: therefore not you.

As the argument of the equall is vsed oftentimes in opposing one equall against another, so these of vnequalles, bee sometimes in a very long continued speeche matched together, as in Ouid, where hee by a continued comparison of his owne miseries with those of Vlisses, inferreth that which he intended

intended, that hée was more to bée lamented then Vlisses: And these may bée fayned also, as ante leues ergò &c. in Virgil. Héere is also sometimes a gradation, as in this, facinus est vincire ciuem Romanum: sceluś verberare: propè parricidium necare: quid dicam in crucem tollere? *Ramus.*

Glanuil chiefe iustice in H.2. dayes, lib.7.ca.10. Notandum quòd si qnis in capite de domino rege tenere debet, tunc eius custodia ad dominum regem plene pertinet, siue alios dominos habere debeat ipse hęres, siue non, quià dominus rex nullum habere potest parem, multò minus superiorem.

Elenchs.

As when you take that for lesse which is not lesse. As if a boy can paynt, then a man can paynt, for although a boy bée lesse then a man, yet a boy may sometimes soner paynt then a man.

So then by these generall heades thus distinguished, wée haue the meanes and way of inuention put down. Although Menon make a great shewe of prøfe that there is no art or order in inuention: for it were in vaine, quoth hée, to séeke for that which wée haue found alreadie, & it is impossible by search to find ý which we know not when wée sée it: Socrates goeth about to dissolue this Dilemma, by I cannot tell what mistery of Pythagoricall philosophie, and saith that our Discere is nothing els but Recordari; and that our soules were adorned with perfection of all knowledge from eternitie, but enclosed in this fleshly dungeon of the body, wared dull, yet by the application of one thing to an other, remembred that againe which they had forgotten before.

Aristotle aunswereth it after an other maner, and saith, that hée who séeketh, knoweth generally what hée séeketh, though not in particularitie: so by this generall note and marke hée may obserue the speciall, whereof hée was ignorant before. And this is true in part, for when wée haue conceiued the generall precepts of any art, then doe wée search the particularities by the generall direction of those rules. But if Menon should goe further, and bring in that first inuention of man, when there was no obseruation either of generall or speciall, how would this aunswere suffice? There-

fore, for a finall resolution, I say, that mans soule hath in it a naturall power and abilitie, whereby it is apt to conceiue any thing, if it bee directed, turned, applied, and bent thereunto: so saith Aristotle. 2. de demonst. that our soule brought not with it into the body the knowledge of thinges, as Socrates imagined, but onely a facultie and power of understanding; as our eyes haue not the distinct kindes of colours ingrauen in them by nature, but onely an abilitie of seeing colours. So then, as a man loking on colours, seeth: in like maner by applying his spirit and understanding to thinges vnknowne, he may by the diligent perusing of these generall heades, finde, what hee seeketh now, and knew not heeretofore. But to him onely, as Tully sayth, will these generall predicamentes or Categories of argumentes become profitable indeede, which hath beene a trauailed and a well experienced man in matters of importance, which age and continuance of time affordeth, or hath read much and heard more, which studie and diligence yeeldeth. Subacto enim ingenio opus est &c.

If we shall for exercise sake vse to draw any one word through these generall places of inuention, it will breede a great plentie and varietie of new argumentes, while wee marke what be the causes, effects, parts, whole, generall, speciall, subiectes, adiunctes thereof, and so forth in all the rest: and this either in making and enditing our selues, or els in resoluing, and as it were dismembring that which others haue done.

For the first, let that example of Nobilitas, serue, put downe by Sturmius: For the later, we will take, Amicitia, out of Tullies dialogue, called Lælius. The examples be placed according to the vsuall distribution of arguments framed by Ramus, not according to this lately put downe by my selfe. The matter is not great: it may sone bee altered, and should haue bene now, if time had suffered.

Causæ efficientes Nobilitatis. παθωτα.

Maiorum præclara facta, & generis diuturna comprobatio, stirpisq; antiquitas atque amplitudo: hæ procreantes, conseruantes istæ.

Virtus

Virtus & continentia in posteris, quæ maiorum laudibus respondeat.

αἴτια συνεργοῦντα.

Liberalitas, fortitudo, clementia, cęteræq; virtutes cum corporis pulchritudine copulatæ.

Destruentes.

Morum turpitudo, ignoratio, inhumanitas, vultus Centauricus, & habitudo *Polyphemi* Cyclopica.

Materia.

Ipsa generis antiquitas, & propria virtutis præstantia, frequenti actionum celebritate confirmata.

Forma.

Ista ipsa nominis amplitudo, longinquitate temporis confirmata, & hominum comprobatione stabilita.

Finis.

Vt quæ à maioribus præclarè iacta sint nobilitatis fundamenta, à posteris perficiantur, vt & sibi honori, & amicis voluptati & reip. emolumento esse possint.

Effecta.

In Tyrocinio & exercitationibus militaribus aut cæteros æquales superasse viribus & virtute, aut melioribus & magnis industria fuisse parem: Sub alterarum magistris magnam & diuturnam operam nauasse, & progressus magnos in doctrina fecisse: summa semper temperantia & sobrietate præditum fuisse: optimis & clarissimis imperatoribus stipendia fecisse: In nullo nisi iusto bello militasse: in hostem lenem & misericordem, non sæuum & crudelem extitisse: in acie & oppugnandis ciuitatibus semper inter primos visum fuisse: Duxisse exercitum: Appellatum imperatorem à militibus: Parua manu magnas copias sæpè fudisse: Sese pro patria deuouisse, aut voluisse deuouere, si permisissent milites: Ex prędа, vel nullam pecuniam accepisse, vel cęteris parem: Res à se gestas historia complexum esse: Domi & in pace prudentem senatorem, charum suis, iucundum omnibus sese prębuisse: Principem senatus fuisse: Bis triumphasse: Tertiò consulem fuisse: semper fuisse verum & constantem, nunquam vanum & leuem.

Subiecta.

Animus reuera nobilis & magnanimus, & virtutum præsidijs vndiq; circumseptus.

Adiuncta.

Clarum esse, & illustrem: omnium gentium literis ac linguis celebrari: deduci: assurgi: &c.

Diuersa.

Non omnem à maioribus habuit nobilitatis opinionem, sed & suis virtutibus exornatam.

Disparata.

Non in simulata ementitæ nobilitatis vmbra delitescit, non pecuniarum copijs euectus est, sed & suis & suorum factis illustratus.

Relata.

Nobilitas est rei nobilitatæ nobilitas.

Aduersa.

Nobilitas & obscuritas: nouitas & antiquitas: humilitas & amplitudo.

Priuantia.

Nobilis & ignobilis. Clarus, obscurus.

Paria.

Claritas & splendor: Antiquitas & vetustas.

Maiora. Minora.

Pulchrius est fieri, quàm creari nobilem.

Ortus præclarus est exoptandus, multò magis itaq; animus generosus, & mens excelsa.

Similia.

Ciuitas in qua nobiles non sunt, similis est ijs hortis, in quibus flos nullus est insignior.

Dissimilia.

Non vt herbæ vitiosæ abijciuntur, ita si quis nobilis vitiosus aliqua in parte sit, spoliari debet auito nomine.

Coniugata.

Nobilitas, nobilis, nobilitare, nobilitari, nobile factum, homo nobilitatus, & virtus nobilitata; nobili loco natus, & natus nobili genere, & nobilissima familia, aut stirpe antiquissima ortus, & generosa stirpe procreatus.

Notatio.

Notatio.

Nobilitas indè nominata est, quod eorum qui nobiles sunt, nota virtus esse debeat.

Distributio ex causis.

Nobilitas in ciuitatem, familiam, gentem distributa est.

Ex effectis.

Nobilitas alia vera, orta ex clara familia, & virtutibus maiorum respondens, alia noua quidem, non adiuta maiorum gloria, bona tamen & industria, & cupida honestatis. Tertia, calida & malitiosa, quæ non virtute, sed simulatione, & falsa specie virtutis sibi nomen conatur comparare. Quarta verò quæ vitijs atq; flagitijs dedita est, dedecus familiæ suæ, profundens omnes opes, amittens domesticam laudem, profligatæ audatiæ atq; malitiæ. *Ex subiectis.*

Nobilitas, vel *Græcorum* est, vel *Romanorum*, vel *Persarum*, vel *Medorum*, vel gentium aliarum.

Ex adiunctis.

Hominum alij nobiles, alij ignobiles.

Definitio.

Nobilitas est generis antiquitas, ortum habens vel à diuino aliquo principio, vel maiorum virtute pręclara, humanę societatis consensu comprobata.

Descriptio.

Nobilitas est nominis amplitudo, virtutis comes, virtute conformata, quæ breuitatem vitæ posteritatis memoria consolatur, quæ facit vt absentes adsimus, viuamus mortui: cuius deniq; gradibus homines in cœlum videantur ascendere.

Testimonia.

Malo, pater tibi sit *Thersites*, dummodò tu sis
Aeacidæ similis, *Vulcaniaq;* arma capessas;
Quàm te *Thersitæ* similem producat *Achilles*.

Inquit *Iuuenalis*.

Nobilitas sola est, atq; vnica, virtus. Vt rectè Poëta.

Non domus dominum, sed dominus domum nobilitare debet, si fidem *Ciceroni* adhibeamus.

Thus haue we drawne this argument, Nobilitas, throughout most of the places of Logicall Inuention: which shall suffise at this time for an example of Genesis in this first

part of Logike. Now let vs in order of Analysis, apply such arguments to this word, Amicitia, as wee can readily find in the forenamed Dialogue.

Causa efficiens. Natura, Virtus.

Quapropter à natura mihi videtur potius quàm ab imbecillitate orta amicitia, & applicatione magis animi cum quodam sensu amandi, quàm cogitatione quantum illa res vtilitatis esset habitura &c.

Quod si tanta vis probitatis est, vt eam vel in eis quos nunquam vidimus, vel, quod maius est, in hoste etiam diligamus, quid mirum si animi hominum moueantur, cum eorum, quibuscum vsu coniuncti esse possint, virtutem & bonitatem perspicere videantur?

Causa adiuuans.

Quanquam, confirmatur amor, & beneficio accepto, & studio perspecto, & consuetudine adiuncta, quibus rebus ad illū primum motum animi & amoris adhibitis, admirabilis quædam exardescit beneuolentiæ magnitudo, quam siqui putant ab imbecillitate proficisci, vt sit per quam quisq; assequatur quod desideret, humilem sanè relinquunt, & minimè generosum, vt ita dicam, ortum amicitiæ, quam ex inopia atque indigentia nasci volunt &c.

Adiungitur etiam & rerum conuenientia, & morum similitudo, & voluntatūm summa consensio.

Destruens.

Contentiones, luxurię conditiones, vel commodi, honoris ambitus, pecuniæ cupiditates, iniquę postulationes, morum disimilitudo: dispares enim mores disparia studia sequuntur: quorum disimilitudo dissoluit amicitias, &c.

Materia.

Id in quo est omnis vis amicitię, voluntatum, studiorum, sententiarum summa consensio.

Forma.

Ipsa animorum coniunctio.

Finis.

Vt vsu eius quem diligere cępêrunt, fruantur & moribus; sintq; pares in amore, & equales, propensioresq; ad benè merendum quàm ad reposcendum. Et infra.

Aliso

Alios autem dicere aiunt etiam multò inhumanius, quem locum breuiter perstrinxi paulò antè, præsidij adiumentiq; causa, non beneuolentiæ neque charitatis, amicitias esse expetendas.

Effecta.

Cui potest esse vita vitalis, vt ait *Ennius*, qui non in amici mutua beneuolentia conquiescat? Quid dulcius, quàm habere quocum omnia audeas sic loqui vt tecum? Quis esset tantus fructus in prosperis rebus, nisi haberes qui illis æquè ac tu ipse gauderet? Aduersas verò res ferre difficile esset sine eo qui illas grauius etiam quàm tu, ferret. Deniq;, cęterę res quæ expetuntur, opportunæ sunt singulę rebus ferè singulis: diuitiæ, vt vtare; opes, vt colare; honores, vt laudere; voluptates, vt gaudeas. Valetudo, vt dolore careas, & muneribus fungaris corporis: Amicitia plurimas res continet, quoquò te verteris prestó est, nullo loco excluditur, nunquam intempestiua, nunquam molesta est. Infra.

Nam et secundas res splendidiores facit amicitia, & aduersas patiens cõmunicanq́; leniores. Cumq́; plurimas & maximas commoditates amicitia contineat, tum illa nimirùm prę-stat omnibus, quod bona spe prelucet in posterum, nec debilitari animos aut cadere patitur: verum enim amicum qui intuetur, tanquàm exemplar quoddam intuetur sui. Quocirca & absentes adsunt, & egentes abundant, & imbecilli valent, &, quod difficilius dictu est, mortui viuunt: tantus eos honos, memoria, desiderium prosequitur amicorum, &c.

Subiectum.

Sed hoc primum sentio, nisi inter bonos amicitiam esse non posse. Et

Quanta autem vis amicitiæ sit, ex hoc intelligi maximè potest, quod ex infinita societate generis humani quam conciliauit ipsa natura, ita contracta res est, & adducta in angustũ, vt omnis charitas aut inter duos, aut inter paucos iungeretur. Et,

Itaq; verę amicitię difficilimè reperiuntur in ijs, qui in honoribus req́, publica versantur.

Adiuncta.

In amicitia autem, nihil est fictum, nihil simulatum: &

quicquid

quicquid in ea est, idem verum & voluntarium est. Et,

Vt igitur & monere & moneri, proprium est veræ amicitiæ, & alterum liberè facere, non aspere; alterum patienter accipere, non repugnanter, sic habendum est, nullam in amicitijs pestem esse maiorem quam adulationem, blanditias, assentationem.

Diuersa.

Suis autem incommodis grauiter angi; non amicum, sed seipsum amantis est.

Disparata.

Quòcircà, mœrere hoc eius euentu, vereor ne inuidi magis quàm amici sit.

Relata & Coniugata.

Sed vt tum ad senem senex de senectute, sic in hoc libro, ad amicum amicissimus de amicitia scripsi.

Aduersa.

Quæ enim domus tam stabilis, quę tam firma ciuitas est quę non odijs atq; diſsidijs funditùs possit euerti?

Priuantia.

Beneuolentia, amor, affectio, & ἀπαθεία.

Paria.

Itaq; non aqua, non igni, non aëre, vt aiunt, pluribus locis vtimur quàm amicitia. Et,

Verum enim amicum qui intuetur, tanquam exemplar quoddam intuetur sui. Et,

In amicitia, ęquè nefas sit, turpè aliquid & facere rogatum, & imperare.

Maiora. Minora.

Apertè enim odisse magis ingenuum est, quàm fronte occultare sententiam. Et,

Quid enim potest esse tam flexibile, tam deuium quàm animus eius, qui ad alterius non modò sensum ac voluntatem, sed etiam vultum atq; nutum conuertitur?

Quod si hæc apparent in bestijs, volucribus, agrestibus, natantibus, cicuribus, feris, primùm se vt ipsę diligant (id enim pariter cum omni animante nascitur) deindè vt requirant atq; appetant ad quas se applicent eiusdem generis animantes, idq; faciunt cum desiderio, & cum quadam similitudine amoris humani,

humani, quantò id magis in homine fit natura, qui & seipse diligit, & alterum requirit, cuius animum ita cum suo commisceat, vt efficiat pœnè vnum ex duobus?

Similia.

Est igitur prudentis, sustinere, vt cursum, sic impetum beneuolentiæ: quò vtamur quasi aquis tentatis, sic amicitijs, aliqua ex parte periclitatis moribus amicorum?

Et illud.

Veterimæ quęque, vt ea vina quę vetustatem ferunt, esse debent suauissimæ: verumq; illud est quod vulgò dicitur, multos modios salis simul edendos esse, vt amicitiæ munus expletum sit. Nouitates autem, si spem afferunt, vt tanquàm in herbis non fallacibus fructus appareat, non sunt illę quidem repudiandę, vetustas tamen suo loco conseruanda est.

Dissimilia.

Nec enim illa prima vera est, vt quemadmodum in se quisque, sic in amicum sit animatus.

Coniugata.

Plurimùm in amicitia amicorum benè suadentium valeat autoritas.

Notatio.

Vtrumq; enim, & amor & amicitia, dictum est ab amando.

Diuisio.

Sed nescio quo pacto, ab amicitijs perfectorum hominum, id est sapientum, ad leues amicitias deflexit oratio.

Definitio.

Est autem amicitia nihil aliud nisi omnium diuinarum humanarumq; rerum, cum beneuolentia & charitate summa consensio.

Descriptio breuis.

Amare autem nihil aliud est nisi eum ipsum diligere, quem ames, nulla vtilitate quęsita.

Descriptio explicata.

Equidem ex omnibus rebus quas mihi aut fortuna aut natura tribuit, nihil habeo quod cum amicitia *Scipionis* possit comparari. In hac mihi de Rèpublica fuit consensus, in hac rerum priuatarum consilium, in eadem requies plena oblectationis fuit. Nunquam illum, nè minima quidem re offendi, quod

quidem senserim, nihil audiui ex eo ipso quod nollem: vna domus erat, idem victus, isq; communis: neq; solùm militia, sed etiam peregrinationes, rusticationesq; communes. Nam quid ego de studijs dicam cognoscendi semper aliquid atque discendi? In quibus remoti ab oculis populi, omne otium tempusq; contriuimus?

Testimonium.

Agrigentinum doctum quendam virum, carminibus Græcis vaticinatum ferunt, quæ in rerum natura totoq; mundo constarent, quæque mouerentur, ea contrahere amicitiam, dissipare discordiam. Et,

Rectè *Ennius*, Amicus certus in re incerta cernitur.

Et illud.

Verum igitur illud est, quod à *Tarentino Archita*, vt opinor, dici solitum, nostros senes commemorare audiui, ab alijs senibus auditum; si quis cœlum ascendisset, naturamq; mundi & pulchritudinem syderum perspexisset, insuauem illam admirationem ei fore, quæ iucundissima fuisset, nisi aliquem cui narraret, habuisset. Postremò

Sed nescio quo modo verum est, quod in *Andria* familiaris meus *Terentius* dicit, Obsequium amicos, veritas odium parit.

Thus much for these two wordes, Nobilitas and Amicitia. The like would I haue all Logicall Lawyers to attempt in our common Lawe. At the first it will seme harde and troublesome: but vndoubtedly the spædy profite accompanyed with a swæte delight, will sone ouertake, and quite ouercome the paynes before sustained: and so much the rather, for that it is impossible, any profession whatsoeuer, to bæ more Logicall then is the Law. For proofe; if you take but that little tractate of Villenage in Maister Littleton, you shall finde, if not all, yet not many lesse then all these arguments, vsed in the same discourse, within the compasse of eight little leaues, whereof some bæ bestowed on some other matters.

THE

THE SECOND BOOKE.

Of Disposition.

THE FIRST CHAPTER.

HEtherto of Exposition of Arguments called Inuention, the first parte of Logike: Now followeth the second, which is Disposition.

Disposition is the second part of Logike concerning the disposing of Arguments, thereby to iudge well of them: and therefore this second part is called both Iudgement and Disposition.

Annotations.

Τάξις among the Grecians, is Disposition with the Latinistes. So then the second part of Logike is called Disposition of the forme of the same second part, for that, as in Grammer Syntaxis beeing the second part, ordereth & disposeth simple words handled in the first; so τάξις, Disposition in Logike doth artificially place, settle, and dispose single argumentes one with an other, and that first axiomatically, in seuered axiomes: then, proceeding forwardes to a Syllogisme and methode, as occasion shall serue. For examples sake, this sentence, a villeine regardant is a villeine, is true English, because the nominatiue case and the verbe be placed Grammatically, according to the prescription of Syntaxis: so the same sentence is a true Logicall axiome, because the generall is affirmed on the speciall, in a simple axiome, according to Art in Disposition. Now, this second part of Logike is also called κρίσις, Iudicium, Iudgement, of the vse, commoditie, and ende thereof. For that, by a certeine direction, rule, and prescription of Disposition, ariseth iudgement of the trueth or vntrueth of any axiome; the consequence or inconsequence of any Syllogisme: and the perspicuitie or confused obscuritie of any methode or proceeding.

The second Chapter.

Of Axiomes affirmatiue and negatiue.

DIsposition is either of one sentence, called Axiomaticall: or of more then one, called Dianoeticall. An Axiome or proposition is a disposition of one argument with an other, whereby wee iudge a thing to bee, or not to bee.

An Axiome hath two partes, the bande, and the partes bound: the band is that, which bindeth the other partes together. The partes bound, be either the former or the later. The former is that which goeth before, and is called the antecedent: the later, that which followeth, called the consequent, As

Ah God that Loue should breede both ioy and paine.

Where, Loue, being the cause and first part, is coupled, by the band, shoulde breede; with his effectes, both ioye and payne, the latter part.

An Axiome is either affirmatiue or negatiue, affirmatiue when the bande of the Axiome is affirmed. Negatiue, when it is denied, and although in English, the negation come after the bande, yet in reason it goeth before, and denyeth the bande aswell as in other languages.

From this affirmation and negation arise all contradictions, when the selfe same Axiome is both affirmed and denied, As,

Dido my deare, alas, is dead,

Dido n'is dead, but into heauen hent. Dido is dead, Dido is not dead.

Maister Plowden. Fol. 10. b. Les statutes doyent estre construes solonq; les reasons del comon ley: the negation whereof will make this contradiction, les statutes ne doyent estre construe solonq; les reasons del comon ley.

Annotations.

SIcut νοητικὸν, à verbo νοειν, sic διανοητικὸν, à διανοεισθαι dicitur. Illud verbum à nomine νοῦς, meus; hoc à διανοια, mentis agitatio,

agitatio. νοῦς apud *Aristotelicos* est cognitio principiorum indemonstrabilium. διανοια verò, mentis seu rationis quidam quasi discursus, qui aliter λογισμὸς, ratiocinatio dicitur, cùm ratio ex quocunq; proposito aliud deducit, mouens se ab vno ad aliud inuestigandum, vt præpositio declaret motus tractum, ac transmissionem ipsius νῦ.

[An Axiome:] The Greeke worde, ἄξιωμα, signifieth dignitie, authoritie. The Logicians, as it should seeme, toke it for any thing spoken, pronounced, tolde, as it were, with authority. It heere signifieth any sentence or proposition whatsoeuer, wherein one argument, reason, conceipt, thing, is so conioyned with, or seuered from another, as that thereby wee iudge the one eyther to bee or not to bee, the cause, effect; whole, part; generall, speciall; subiect, adiunct; diuers, disparate, relatiue, repugnant, distribution, definition, testimony, like, vnlike, equall, more or lesse to the other.

[Affirmatiue:] It is proper then to axiomes, not to simple arguments, to affirme or deny: as it is to a syllogisme, to confute or confirme. Affirmatio & negatio enunciati, nihil aliud est quàm partium compositio & diuisio.

[The bande:] The bande in a simple axiome is alwaies a verbe: but this verbe is sometimes put betweene the two arguments, sometimes of it selfe it supplyeth the place of the second argument, as will appeare if you resolue such implicate propositions thus, Plato disputeth learnedly, Plato is a learned disputer.

[Contradiction:] In our Trauerse, which toke name of the French Trauerse (that is de transuerso, on the other side) there is alwaies a manifest example of an exact and Logical contradiction betweene two axiomes, the one affirming, the other denying the selfe same thing that was affirmed: See Maister Lambard Iust. lib. 2. cap. 13.

Home n'auera expresse auerment encounter le returne del vicount, quia il est officer al court, itaq; le court doyt doner credence a luy. Mes si le vicount returne attache, le party dira encounter ceo, nyent attache per 15 iours: issint s'il returne, que le ten. est summons, le tenant poet dire, nyent summons solonq; le ley del terre, car ceo ne trauerse expres-

ment

ment le returne del vicount, mes estoit ouc ceo assets bien sans aleun contradiction.

Vide 1.H.6.8.Rolf. Enseint et nyent enseint, bon issue.

The third Chapter.

Of a true and false Axiome.

Secondarily, an axiome is either true or false. True, when the thing is euen so as it is sayde to bee: false when contrarily: and heere according to the affection of the arguments, we must graunt the true, and deny the false, absolutely.

Both these bee eyther Necessary, or Contingent. Necessarie, when an axiome is eyther true or false without exception: (yet to a generall axiome, exceptions may bee added to make it generally true.)

What euer wanteth changeable rest,
Must needes decay when it is at best. This is necessarily true, and his contrary, necessarily false, so this:

There is no greater estate, then fee-simple. Contingent is, when it is true in such sort, as it may bee false, or so false, as yet it may bee true. As,

Great climbers fall vnsoft. This is doubtfull and contingent.

So Maister Plowden: Fol. 50. Femes facile sont illudes et entice al couyne: For although some great climers haue great falles, and many women bee seduced, yet oftentimes it falleth out, that many of the first escape from falling: and more of the second preuent illusions. Here we must neither absolutely affirme nor deny, but distinguish. The iudgement which wee can haue of this Contingent or doubtfull Axiome, is called Opinion, which in thinges already past or present, may bee certeine vnto man; but in thinges to come, it is altogether vncertaine, although to God there is no such difference of thinges in respect of time, to whome all thinges be present.

All preceptes of Artes are or ought to bee necessarily and alwayes

alwayes true without exception, and so rules of truth: but besides this, they must also bee rules of iustice, as it were, and also of wisedome or discretion, or compendious breuitie.

A rule of iustice is an axiome which giueth vnto euery thing his owne, in coupling those thinges together which agree naturally, wherein vsually are disposed together, the formall cause and the thing formed; the generall and his speciall; the subiect and his proper adiunct.

A rule of wisedome, discretion, or breuity, is an axiome wherein the arguments disposed may bee mutually affirmed one of another. So that, as the later is verified of the former, so the former may bee of the later. The iudgement of these three kindes of axioms is most certeine and infallible knowledge.

Annotations.

THe first rule which Ramus calleth a rule of truth is termed of the Græcians κατὰ παντός, of the Latinists, de omni, because it is absolutely and in most generall manner pronounced of all, without any exception. And it must bee affirmatiue. For a negation doth but depriue and take away; and not imprint in mans minde the knowledge of any thing certeinly. So that no negation, although it bee generally true, is fit to make any precept of art, exactly put downe; whose duety is, to teach truth; not vnteach vntruths, or to tell what is not true. Therefore sayth Aristotle, an affirmation is more honourable then a negation.

As a true axiome is eyther contingent, or necessary: so the false axiome in like wise is eyther variable, or els necessarily false, that is impossible. For, the necessary false hath a proper and distinct name, to wit, impossible: but the necessary true hath no seuerall name: but is called necessary, by that generall word.

The second rule of artes is the rule of iustice: so called of Ramus, for that according to the nature of iustice, in this axiome euery argument hath that adioyned vnto it which is by naturall right, his owne, as the forme his thing formed, the subiect his owne proper adiunct, the generall his speciall: examples whereof I thought it nothing necessary to heape vp

in the text, for that in the chapters of the forme and formed, subiect and adiunct, generall and speciall, they are already discoursed vpon: and there wanteth nothing but the putting of them together in an axiome, which may sone bée performed by the direction of rules of axiomaticall iudgment. This rule is called in Gréeke καθ' αὐτὸ, in Latine, per se: for that both the argumentes in this kinde of axiome, bée essentially and by themselues, their owne nature, force, power, vertue, and inclination linked together. Of these Latine words, per se, Paulus Venetus, and other schoolemen, haue framed this dunsical word of art, Perseitas, and therof made many kinds, and long discourses.

The thirde and last rule, is named of Ramus, the rule of wisedome or discretion; of the effect which it worketh in vs, which is wisedome, sayth Rodingus. For, then onely are wée wise, then onely haue wée the perfect knowledge of any thing, when wée know it by the first causes, that is, by such which are immediate, equall, neyther higher, nor lower, neither too generall, nor too speciall, but iumpe, fit, méete, that is, first, and therefore reciprocall: and this is performed by this rule. This rule is therefore the rule of wisedome; teaching generall things in their due place, once, and generally: Speciall thinges in their conuenient time and order, specially, with their seuerall specials. Whereas, if a man teach a speciall thing generally, in generall, and in a generall place: or a generall thing in speciall, specially, and in a speciall place, hée shall bewray his folly and want of discretion in troubling the auditors with his grosse errour, and tedious Tautologie: Error, in applying a speciall and peculiar thing to a general and vniuersall matter: Tautologie and vayne inculcation of the same thing, in repeating that many times confusedly, which both might and shonld haue béene taught but once, and distinctly. For if I teach a generall thing specially, that is, in a speciall and inferiour place, I must of necessitie repeat that so many times, as there bée speciall things to which it is applyable, because I left it out in the beginning: whereas if I had put it downe generally, in his higher place, aboue his specials, this once putting downe had sufficed for all: because

it

it is placed as a generall; and euery generall includeth the whole societie of his specials, and to euery of them is equally appliable, by the order of art and nature.

The Grecians call this rule, καθ' ὅλου πρῶτον: the Latinistes, vniuersaliter primum. καθ' ὅλου πρῶτον, is then, as I said before; when in an axiome, both the argumentes ioyned together bée iumpe, fit, méete, first, equal and therefore reciprocall: equall I call them, which are as generall or special, the one as the other: so that the one conteineth no more then the other, neither is the one higher then the other, such an one is this, A man is apt to laugh: A man is reasonable: A villeyne is either, in grosse, or els regardant: Logike consisteth in Inuention, and Disposition: Logike is an Arte of reasoning, for here either the definition and the thing defined, or the subiect and his proper adiunct; or the forme and the thing formed, or the generall and his specialles, or els whole and partes bée ioyned togither. Such as these, bée according to this rule, καθ' ὅλα πρῶτον. And it is so called because the second part of the axiome (in this, A man is apt to laugh) is verified of no other thing before man in generall, but first of man, then secondarily of singuler men, as Plato, Socrates, &c. and whatsoeuer is thus spokē first of the whole antecedent, must needes be reciprocall with the same antedent. Herevpon, I say, was it called καθ' ὅλα πρῶτον, vniuersaliter primum.

art thinking pt. 1. page 87.

Prima regula, sayth one, falsos; secunda peregrinos; tertia nimis elatos aut abiectos ciues è ciuitate philosophica excludit. The first excludeth all false and lame preceptes, which if it were obserued in our lawe, then all repugnant dreames of Serieantes and Counsailers that serue the time and speake for money shoulde not runne so currant for good law: nay euery iudgement geuen either without reason, or with partialitie, should not stand for Iustice: euery Semble, should not passe for a sentence, nor euery Dictum fuit, for a Dictators constitution.

It is not necessary that euery axiome κατὰ παντος, should be general, saith Scribonius, for, in astronomy, there be many particulers, but it is therefore called De omni, for that it is

necessarily true, with affirmation, without exception. Yet a general rule with his particular exception is κατ' ἐξοχήν, nam exceptio non solum restringit regulam, sed etiam confirmat.

The second rule reiecteth all impertinent matters which are not coherent, nor suitable to the proposed argument, but discrepant and disagreeable, as precepts of Rhetorike among axiomes of Logike, as in a discourse of Garrantie, to talke of Rickhils remaynders: in a chapter of releases, to lay downe the pleading in a writ of right: in the explication of conditionall estates, to declare the nature of a deede indented, and a deede polle: among the preceptes of tenants in common, to cast in peeces of releases; as the custome is among litle grand mootemen, who cast case vpon case, as Carters do billets vpon billets, and for euery collaterall trifle, run ouer all the 633. titles of Brookes abridgement.

The third rule, as it is in practise hard, so in obseruation it is most commendable, and if it bee violated, it argueth a most grosse ouersight in the vnskilfull artificer. As if a professor of Logike should say, that a cause is euer inherent, or, as it were, ingrauen in, and together with the thing caused; this were absurdly spoken, for in teaching a speciall thing generally, hee applyeth that generally to all causes, which is appropriate naturally to one cause, and onely one cause, I meane the forme, which is alwayes inherent in the thinge formed, and imprinted in the same, whereas other causes bee not so. Agayne, if the same Logicall Doctor should say, that the materiall cause were the fountayne of all knowledge, or should affirme the same of all the other kindes of causes specially and in seueralty, hee might iustly bee reprehended for a double fault, the one, for making a generall adiunct bee restrayned and tyed to one peculiar subiect: the other, for vainlie repeating that in diuers specials, which was in generalitie to haue beene layd downe but once for all. There is in effect no part of our Law that euer was ordered according to this rule: yet it appeareth that the founders of our Law had a liking thereof, in that they detested the contrary vice. Car nous eyomus vne erudition, que si home ad briefe framed in le Register pur son speciall case, præter le generall briefe, et

il vse le generall briefe pur son speciall case, ceo briefe abatera. Et vide 7. H. 7. In trespasse per le baron et feme, et count del trespas fayt al feme dum sola fuit, ceo abatera le briefe. 7. E. 6. 80. Dyer.

Aristoteles affectiones has tres ad propositiones syllogismi Demonstratiui restrinxit, sed *Ramus* eas ad omnia artium precepta rectius accomodauit. In Logike, saith Scribonius, wee are not to giue peculiar preceptes fit onely to put downe arts (as Ramus in this place seemeth to do, where hee maketh the foresaid rules of Truth, Iustice, and Discretion, proper and peculiar directions for the conformation of arts) but generall for Ens, and non Ens. So that hee would haue no mention made of the constitution and framing of artes purposely and ex professo, for that were impertinent, but onely obiter, and by the way, in manner of a Corollary or Consectary, that it might bee the more tollerable and Homogeneum, that is, the more sutable and coherent. And so I make it heere no distribution at all, but onely a Corollary.

Impossibile quadruplex, sayth one, Naturæ, vt cœlum digito attingere: Iuris, quod bonis moribus & rationi repugnat: Contradictionis: Facti; hinc impossibilium nulla est obligatio, the like whereof is in Parkins and diuers yeare bookes.

The fourth Chapter.

Of a simple Axiome.

THus much of the common proprieties of axiomes, the specials follow.

An axiome is either simple or compound: Simple is that whose partes bee coupled together with a verbe.

In July. They beene yclad in Purple.

Maister Plowden, Fol. 497. a. Le prior de. S. Iohns auoit l'estate del templers.

In Nouember. *Dido* n'is dead.

M. Plowden. Fol. 5. a. Ex nudo pacto non oritur actio. And this is the first disposition of argumentes inuented.

In the firſt affirmatiue example, the former part is the ſubiect: the later the adiunct: In the firſt negatiue, Dido, the former part, is oppoſite vnto deade, which is the later parte: and deade is oppoſite vnto Dido, which is the former parte.

And as wée ſée in theſe examples the diſpoſition of agréeable argumentes, as of the ſubiect with his adiunct in the firſt: and of diſagréeable argumentes, as of the oppoſite with the oppoſite in the laſt: ſo wée may diſpoſe after the ſame maner all argumentes agréeable and diſagréeable: alwayes affirming the agréeable, and denying the diſagréeable: except diſtributions and full comparis̃os, ſuch as haue thrée or foure tearmes or partes, and therefore cannot bée diſpoſed in a ſimple axiome, but in a compound.

The ſimple axiome is eyther generall or ſpeciall: Generall is when the later parte is generally referred and attributed to the former. And in general axioms, one of them contradictory to the other, is not alwayes true or alwaies falſe; for if they bée both variable, they may bée both falſe, as,

All that is lent to loue will be loſt.
Nought that is lent to loue will be loſt.
Cheſcun tuer d'un home eſt prohibite per le ley.
Nul tuer d'un home eſt prohibite per le le ley.

As alſo if they bée not varyable, as héere:

Euery creature is reaſonable.
No creature is reaſonable.
Cheſcun C̃uſtome eſt ground ſur reaſon.
Nul C̃uſtome eſt ground ſur reaſon.

The ſpeciall axiome is, when the conſequent or later part, is ſpecially attributed vnto the antecedent or former parte, not generally: whereof one béeing contradictory to another, is alwayes true, or alwayes falſe.

The ſpeciall is eyther particular or proper: Particular, when the later part generall is attributed vnto ſome of the former, but without any certaine limitation, and to this the generall is contradictory.

In May Piers, of ſhæpheards.

Some gan to gape for greedy gouernance.

The generall contradictory whereof, is,

None

None gan to gape for greedy gouernance.
Ascunes mynes sont royall
Null mynes sont royall

The proper Ariome is when the latter part is attributed vnto the former, being a proper, singuler, or one thing.

Diggon in September.

Indeede thy Ball is a bold bigge curre,
Whose negatiue and contradictory, is
In deede thy Ball is not a bold bigge curre.
Iohn vane *Salsbury* tue l'home felonioulment,
Iohn vane *Salsbury* ne tue l'home felonioulement.

Annotations.

The iudgement of this simple ariome is moste naturall, but in part common to brute beastes aswell as to man, as in all singuler matters comprised in the ariomes called proper. For as Aristotle teacheth in the second of his demonstrations, euery sensible creature hath a naturall power and faculte of iudging, which is called sence; & this sence 2. Topic: is of him sayde to bée a certayne kinde of iudgement: and without doubt, the sence is a moste vpright iudge of suche thinges as are properly vnder his iurisdiction, as the sight of colours, the hearing of soundes, the smelling of smelles, 4. Metap.

This iudgement of the sences is more exact and exquisite in some sortes of beastes, then it is in man. For although man doe surpasse other creatures in tutching, yet the Egle seeth more clearely than hée, the Vultur smelleth better, and the Mowld heareth sooner, as *Plynie* reporteth in the second of his naturall historie. So that the iudgement of a simple ariome is not altogether proper and peculiar to man onely, but that of the generall ariome is mans alone. For although it seeme that beastes haue some little sparkes of reason, as Aristotle in the second of his Physikes speaketh of the Spider and the Ante, whereunto Galen also séemeth to yelde, yet in truth this iudgement is nothing els in them, but only the fantasy or imagination of sensible notions, neither can any beast conceiue any generall. And though Epicurus did so much abase mans dignitie, as to attribute the souereigne

iudgement,

iudgement and determination of all thinges vnto sence, not vnto reason and vnderstanding, yet wée know what an infinite & vnspeakable capacitie mans soule is indowed withal, how farre the general is more honorable then the singuler, & how wonderfully mans minde worketh of it selfe alone without any helpe of sence, whatsoeuer bée obiected by that sensuall, or rather senceleste and brutish Philosopher Epicurus.

[And in the generall, one of them contradictory to the other, is not alwayes true or alwayes false:] this is false, sayth Scribonius, therefore we must say thus,

All that is lent to loue will be lost:
Not all that is lent to loue will be lost.

For, saith he, the generall nature of a contradiction is, to diuide betwéene truth and falshode. But there is a generall kinde of contradiction in propositions or axiomes, when two generall axiomes are so opposed the one against the other, as what the one doth affirme, the other denieth of and in the selfe same thing, and these can neuer bée both true, but they may be both false. This general contradiction is of Aristotle called a contrarietie in axiomes by a distinct name and title, not a contradiction.

An other kinde of contradiction there is which is special, and is called by the generall name, a Contradiction, not a Contrarietie, when ỳ one is a generall affirmatiue axiome, the other a particuler negatiue, or contrarilie: which indéede as Scribonius saith, can neuer bée either both true or both false; Thus then wée sée the cause of this reprehension, what it is and how much worth. The diuers acceptation of this word, Contradiction, caused an error, and this error a nédles reprehension.

Et quia quidam recognitorum modò comparentium non fecerunt visum, & quidam non venerunt ideo iurata remanet vsq; ad proximam assisam. Ceo fuit error per troys Justices, car l'un part del recorde est contrariant al auter: car per le primer parcel, s. quia quidã recognitorum modò comparentiũ; l'apparance de touts est affirme: et in le second part, s. & huidam non venerunt, le non apparãce del parcel des Jurors

est

est affirme, sic contrariant, s. omnes Iuratores venerunt (car coment q, le generall note, Omnes, ne soit la mise, uncore est include et implye solonq; cest opinion :) & quidam Iuratores non venerunt. 22. E. 4. 16. 17.

33. H. 6. 26. b. Prisot. Le briefe est repugnant en luymesme, s. quod cum ipse habeat quoddam Cheminum ratione tenuræ suæ ad ecclesiam de D. le def. leuauit quendam murum, per quem murum Cheminum habere non potest. Issint il reherce coment il ad un chemyne in le premis del briefe, et in le percloſe, il reherce, quod habere non potest, nisi ita exponas, habeat de iure, habere non possit de facto.

A generall :] Axioma generale esse potest, etsi nullum symbolum generale adijciatur, cuiusmodi sunt omnis, nullus, &c. Itaq; sententia axiomatis consideranda est, sic, Malus vsus abolendus est, generale est axioma. In euery general ariome both the former and later part must bée a thing generall and common to many : and also the later part must bée generally attributed to the former part, that is to say, to all the nature of the former parte, and to all thinges conteyned vnder the same former part.

A simple ariome, sayth Piscator, is generall or speciall : generall is vniuersall or particular : vniuersall eyther definite, as euery man is reasonable, or indefinite, as man is reasonable : But Ramus expelleth that vncerteine and indefinite ariome; for euery conceipt of the mind is determinatly eyther generall or speciall, and speciall, eyther particular or singular, as in that ariome vttered by Hanck. 11. H. 4. 47. Damnum poet estre absq; iniuria, the sence is determinate, that aliquod damnum est absq; iniuria, as in that case of the thrée schoolemaisters, where the thirds diligence withdrewe all the schollers from the other two.

As for those which they call Subcontrarias; or vnder contraries, they make no true contradiction. For they may bée both true : nay they rather make an argument of partition. For, these ariomes :

Some men be lawyers,
Some men be not lawyers.

Be nothing els but a distribution of men, as if a man

shoulde diuide men into two partes, whereof the one shoulde bee lawyers, the other shoulde bée no lawyers: and these axiomes may bée both true.

The other that are called Subalternæ, bée both affirmatiue, or both negatiue, the one béeing generall, the other his speciall: so that they make an argument, of the generall to his speciall: As,

Euery knightes seruice draweth with it gard, mariage, and reliefe.

Some knightes seruice draweth with it, gard, mariage, and reliefe.

Equipollence is Grammaticall, Brian in 11. H. 7. 23. intangleth a plaine case with this obscure sophistry of Aequipollentia. Conuersion of propositions turneth good axiomes many times out of their wit: whatsoeuer is good in it, is fet either from reciprocation in argumentes, or from syllogismes: De modalibus, they say, Non gustabit asinus: Let fine headed cloysterers loue them, sine riuali: they bée nothing but additions of seuerall affections of argumentes in an axiome. Suppositions are built rather vpon idle suppolals of schoolemen, then grounded vpon any sure foundation of naturall experience. For these and all like these, no more, but this, As good they were neuer named, as euer beléeued.

The fift Chapter.

Of the congregatiue Axiome.

Hitherto of the simple axiome. Now followeth the compound. The compound axiome is that whose parts bée coupled together with a coniunction, and the partes of the contradiction are alwayes one of them true and the other false. Here the turning of the parts is very vsuall.

The compound axiome, according to the nature of hys coniunction, is either congregatiue, or segregatiue. Congregatiue is that which gathereth or copleth togither the agrée-

able

able and disagréeable arguments, affirming the one, and denying the other.

The congregatiue is eyther copulatiue, or conneriue: copulatiue is that, whose coniunction is copulatiue, as that of Thomalyn in July.

But shepheard mought be meeke and milde,
well eyed, as *Argus* was:
With fleshly folly vndefilde,
and stout, as steede of brasse.

Maister Plowden. Fol. 75. b. Assises sont le plus spédy suites que le ley done. Et le ley plus grandement ceur fauour, et fauour auxi les choses que font spéde et expedition en ceo, et abhorre touts delayes que sont en retardation del assises.

The negation and contradiction is,
But shepheard mought not, &c. And
Assises ne sont, &c.

The true iudgement of this copulatiue axiome dependeth on the truth of euery part: for if all the partes bée true, it is then a true axiome: false, if any bée false.

Héerevnto must bée referred full comparisons and similitudes, wherein the coniunction is the very relation it selfe, as, Colyn in January.

And from mine eyes the drizling teares descend,
As on your boughs the ysicles depend.

Héere the iudgement is compound, as if hé had sayd, the ysicles depend on your boughs, and the teares fall from myne eyes.

The contradiction of these, are the denials to euery part.

Annotations.

COmpound:] the worde, hypotheticall, which is héere commonly vsed, is neither proper nor fit for this purpose. For, in absolute copulatiue and discretiue axiomes, there is no ὑποθεσις, no condition at all.

Whereas I haue already oftentimes in this second booke vsed these words, a Verbe, and a Coniunction: it is to be vnderstode, that I meane not the naked words: (for that were

Grammaticall, and belonging onely to speech: not Logicall, and perteyning to reason:) but the verbe and coniunction of the minde, wit, and reason: which indede is commonly, although not alwaies, expressed by some such Grammaticall Verbe and Coniunction.

The negation in a copulatiue axiome is not the denying of the parts conioyned; but the denying of the conioyning of the parts As thus,

Shepheardes must not be both meeke and milde, and well eyd, and vndefil'd, and stout, altogether.

Q. An copulatum axioma sit sine notis copulatiuis, vt *Titius, Meuius, Decius* heredes sunto.

In 22. E. 4. 32. In dett sur le custome de Londres de forreine attachement, le def. pleade en barre, vn copulatiue, s. le record del recouery, et auri le custome de Londres, le pl. trauerse l'un part, s. le custome, et est troue faux per certificat, ergò tout est faux, car le nature d'un copulatyue, est que si part de luy soit faux, tout serra faux. Bryan.

Legulei aliquando accipiunt, Et, pro, aut, & contra. Vt, home bargaine ou vende sa terre a vn auter, et couenant de faire vn bone et sufficient estate in fœsimple al bargainee et ses heyres in le terme de s. Michael, prochein; et deuant le terme de s. Michael, le bargaignee mourust, hîc le bargaignor poet et doyt fayre estate in terme de s. Michael al heyre le bargaignée: et vncore les parolles fueront, que il fairoit estate al bargaignée et ses heyres: hîc, et, est prise, pro, aut. Sed barbarismus imperitorũ ne doit estre preiudiciall al art.

In omni composito axiomate, præter discretum, duplex est modus contradicendi. Primo, cum contradicitur vinculo compositionis, & tùm contradictio diuidit verum & falsum, vt *Esopus* & ingenioſus fuit & formoſus, *Esopus* non & ingenioſus fuit & formoſus. Secundo, cùm contradicitur compoſiti partibus, vt *Esopus* fuit & ingenioſus & formoſus, *Esopus* nec ingenioſus fuit, nec formoſus, & tum non diuidit verum & falsum ait *Piscator*.

The sixt Chapter.

Of a connexiue Axiome.

A Connexiue Axiome, is that, whose coniunction is connexiue, as, Hobbinoll in June.

Then, if by me thou list aduised be,
Forsake the soyle that so doth thee bewitch.

Maister Plowden Fol. 11. b. Caren 2. R. 2. in trespasse, il est tenus come vn maxime, que si ascun home ad interest a ascun chose per le graunt ou assent d'un auter: et le partie que ad tiel interest, ne poet auer le principal chose sans faire auter chose, que il poet faire le dit auter chose, et ceo iustifier, eo que il est le meynes a vener a son profit.

Whose contradiction is, though thou be aduised by mee, yet thou needest not forsake the soyle &c. And, comentq; il ne poet auer le principale chose sans faire auter chose, vncore il nauera ceo &c. For, the affirmation signifieth, if the former part bée true, then the later must nédes follow; wherefore the negatiue and contradictory must bée thus: if, or though the antecedent bée graunted, yet the consequent doth not necessarily folow.

Wherefore when wée iudge the connexiue axiome to bée absolutely true, wée iudge it also to bée necessary. Albeit the necessitie ariseth onely of, or dependeth vpon the necessary copling together of the parts: which may bée when as, notwithstanding both the parts seuerally disposed are false, as in the first example: for neyther did hée leaue the soyle, nor folow Hobbinols counsayle: which counsayle if hée had folowed, then must hée necessarily haue left that countrey: for this was his counsayle.

The iudgement of this axiome is certeine knowledge, when the connexion of the parts is necessary, but if the parts be variable, and the connexion onely probable, then our iudgment thereof is onely an opinion.

In May the gate to her kiddy:
Thy father had he liued this day
To see the braunch of his body display,

How would he haue ioyed at this ſweet ſight?

Hitherto muſt bée referred that relation which is expreſſed by an aduerbe of time.

In December.

Whylom in youth when flowrd my ioyfull ſpring,
Like ſwallow ſwift I wandred heere and there.

As often as thy brother offends, ſo often forgiue him.

Maiſter Plowden: Fol. 541. Quant diuers choſes ſont dit a vn meſme inſtant, et l'un ne poet prendre effect ſans auter; le comen ley aiudgera ceo de preceder et enſuer, en ſeaſant lentent de parties de prender effect.

Annotations. Elenchs.

THe other ariomes are not ſo eaſily abuſed as this. For here the negation is of no force at all, vnleſſe it be directly referred to the band which is a coniunction. Therefore although a man might thinke this to bée a Negation.

If *Dido* liue, ſhe is not dead:

Yet indeede, it is an affirmation, whoſe negation ſhould bée thus.

Not if ſhée liue, therefore ſhe is not dead, or, it doth not follow, that if Dido liue, therefore ſhée is not dead.

Beurhuſius giueth this Canon, which ſéemeth ſtrange to many. There may bée an affirmation, though both the partes be denyed, as, if hée bée not induſtrious, hée will not bée learned.

This is Berhuſius his example: the like whereof is this.

If hée bée not in London, hée is not in Cheapeſide. Iſta negatio æquipollet affirmationi, ſ. hée that is out of London, is out of Cheapeſide.

And vnleſſe this bée graunted to bée an affirmatiue ariome, there will be a very good ſyllogiſme made of onely Negatiues, contrarily to the common receaued verſe: for, I can very well reaſon thus.

If it bee not in London it is not in Cheapeſide:
But it is not in London, therefore
It is not in Cheapeſide.

A connexiue ariome is that alſo in Maiſter Plowden:

Fol.

Fol. 10.b. Et il y ad vn principall ou foundation en le comen ley pur construction des parolles, ou clauses, ou sentences, s. que en chescun graunt, ou done, si les parolles soyent ambiguous et doubfull, que ils serra prise plus fort encounter les grauntors ou donors, et plus beneficiall a ceux as queux le graunt ou done fuit fayt.

[Connexion onely probable:] Contingens est connexio, quando partes pro sua probabilitate tantùm ponuntur, id est, neq; absolutè consentiunt, neq; planè dissentiunt. Itaq; etiam axiomatis veritas ex argumentis siue rebus dispositis, non ex sola connexione dependet: si enim necessitas ex sola connexione esset, omnis connexio esset necessaria, quod nemo dixerit. *Wasserleider.*

[Aduerbe of time:] Fit. cor. P. 385. P. 15. Quant le defendant pleda al appele de rien culpable, prist a defender per son corps, il doyt getter son gaunce in le court, &c. The same force is in an aduerbe of place in our law, as in that of 1. H. 5. 3. per Hull. Lou vn home demande certeine chateux, et per son briefe est proue, que le property est deuestue de son possession per le prise, la il couyent a luy de metter le price. Here these words, lou and la, bee in sence no more but, if, and then, or when and then.

Connexum duobus modis negatur: simpliciter quando negatio pręponitur coniunctioni; apertius, quandò inconsequentia etiam exponitur; vt si dies est, lucet: non, si dies est, lucet. Et, si dies est, non ideò lucet, vel non sequitur lucere. Itaq; non satis accuratè *Boetius* dicit, ad consequentem propositionem respiciendum esse, vt affirmatiua vel negatiua, propositio connexa iudicetur: vt, si est A, est B: affirmatiua est, ait *Boetius*: si est A, non est B; negatiua: at, inquam, tam est affirmatiua secunda propositio hæc, quam illa prima. Deceptus est autor huius dogmatis dissensionis specie, quia illa enunciata dissentirent, nec simul esse vera possent, ideò contradicentia putauit. At contradictio est affirmatio & negatio eiusdem de eodem, illic, si est A, est B; affirmatio est consequentis affirmati de antecedente affirmato: hîc, si est A, non est B, affirmatio item, sed consequentis negati de affirmato antecedente: at affirmatio affirmationi non contradicit, licet opponatur alio genere.

Conuerſiue

Conuertiue axioms bée called Conditionall: of these there bée infinite in our lawe, as may appeare by the large titles and discourses of conditions in Littleton, Parkins, Fitzherbert and Brooke. Conditio, saith one, triplex est: concipitur enim aut in præteritum, præsens, aut futurum. In futurum conceptæ sunt possibiles vel impossibiles. Possibiles sunt vel simpliciter voluntariæ fortuitæq; (vulgò potestatiuæ & casuales dicuntur) vel mixtæ.

The seuenth Chapter.

Of the disiunctiue Axiome.

THe segregatiue axiome is that whose coniunction is segregatiue, and therefore is fittest to dispose disagréeable arguments, which must bée seuered.

The segregatiue is eyther Disiunctiue or Discretiue. Disiunctiue is that whose coniunction is disiunctiue, wherevnto is referred the distributiue. These are fittest to dispose repugnant arguments, and diuisions of two partes.

In September.

Diggon Dawy I bid her good day,
Or *Diggon* her is, or I missay.
Touts mynes sont royall ou base mynes.

Héere the contradiction doth not make the partes necessarily true or false: for if the disiunction or separation bée true absolutely and also necessarily without any thirde thing put betwéene, then the whole axiome is true and necessary, notwithstanding the speciall partes by themselues considered may bée contingent, as héere:

Or *Diggon* her is, or I missay.

The disiunction is necessary; & yet *Diggon* her is, is a contingent axiome; also, I missay, is a contingent axiome. But the necessitie of the disiunction dependeth on the necessary opposition or disiunction of the parts, not on the necessary truth of the partes. If therefore the disiunction bée but contingent, or

vpon

vpon a suppoſition, then it is not abſolutely a true axiome, as when Læander ſayd, he would either bée drowned or haue his deſire. Otherwiſe the iudgement of this axiome, when the oppoſition is neceſſary, is a certeine knowledge.

Annotations.

Piſcator ait axioma diſiunctiuũ præponendum eſſe diſcreto, vt copulatiuum prius eſt connexo. Nam in copulatiuo & diſiunctiuo, pars altera notio ſimplex eſt, altera verò notionum complexio; at connexi & diſcreti vtraq; pars tum antecedens tum conſequens non ſimplex notio eſt, ſed notionum complexio enunciatiua.

Idem *Piſcator* putat axioma diſiunctiuum differre à diſtributiuo. Nam diſiunctio eſt qua partium diſiunctarum vna aliqua pro vera aſſeritur, ita vt cæteræ res ſint falſæ, ſcilicet, cum partes de ſpecie aliqua eius generis, ad quod partes propriè pertinent, enunciantur, vt *Socrates* eſt rationalis, aut irrationalis, ſanus aut æger. At diſtributio eſt, qua partes enumeratæ omnes pro veris aſſeruntur, vnaquæq; cum toto quod diſtribuitur, particulariter diſpoſita, ſcilicet cum partes de ipſo genere aut integro, ad quod propriè pertinent, enunciantur, vt animal aut rationale eſt aut irrationale, aut ſanum aut ægrum, ac ſi dicerem, animalium aliud eſt rationale, aliud irrationale, aliud ſanum, aliud ægrum.

[Læander:] the verſes bée theſe;

Aut mihi continget fœlix audacia ſaluo,
Aut mors ſolliciti finis amoris erit.

Leaſe fait pur ans, payant annuelment xx. s. ou vn toge. This, as alſo the whole title of Election dependeth on this diſiunctiue axiome. The difference is now when it is but for once, or when continuall; if continuall, eliget grauntor &c. Vide 9. E. 4. & 17. E. 4.

Congregare, ſegregare, copulare, connectere, diſcernere, diſiungere, bée Latine wordes, yet by vſe made Engliſh. I néede not make any interpretation of them.

The neceſſitie of the diſiunctiue axiome, as is ſaid before, dependeth of the neceſſary oppoſition of the partes, not of the neceſſary truth of the ſame. Which thing bëeing not conſide-

red, caused not onely Epicurus, who was but a dunsticall Logician, to bée deceiued, but those also who thought themselues great experienced men in this profession, as Chrysippus and Diodorus: for they imagined that if the disiunction were necessary, then the one or the other part of the axiome should be also necessary, and into the same error doth Tully himselfe fall in his booke de fato.

Elenchs.

Sith the disiunction is not necessary, but when the partes haue no third thing betwéene, this axiome is false when wée thus say, *Paris* must needes eyther walke or daunce, for hée may aswell holde his peace and stand still. So this, Euery francktenement is eyther feesimple or feetayle, for there bée other freeholds, as pur terme de vie, and pur auter vie.

The eight Chapter.

Of the Discretiue Axiome.

Art Th: 2. 203.

THe discretiue or discerning axiome is that whose coniunction is discretiue. Wherefore of disagreeable argumentes it is fittest to dispose those that are diuers and differ onely in respect.

In December.

But ah vnwise and witlesse *Colin Clowt*,
That kidst the hidden kinde of many a weede,
Yet kyds not one to cure thy sore heart roote,
Whose ranckling wound as yet doth rifely bleede.

Maister Plowden: Fol. 82. a. Car parols, que ne sont que le verberation del ayer, ne sont lestatute, mes solement l'image del statute.

This axiome is iudged to bée true, when the partes bée not onely true but diuers also the one from the other: false and ridiculous, when otherwise.

Annotations.

Dissentanea argumenta etiam congregatiuo axiomate enunciari possunt, vt mel & dulce est & flauum, hîc diuersa enunciantur congregatiuo copulato. Quin & simplici etiam axio-

mate

mate diuersa enunciari possunt, vt flauedo mellis non est dulcedo eius.

Vt occupatiua axiomata non admittunt contradictionem, ita nec discretiua; sed illa apta sunt ad respondendum & contradicendum consequentibus falsis enthymematum illlorum hominum quibuscum loquimur: hæc ad contradicendum enunciatis copulatis ex parte falsis, vt *Aesopus* & ingeniosus fuit & formosus, hoc falsum est ex parte posteriore: Si ergò hanc falsitatem velim ostendere contradicendo, non satis erit negare copulationem, sic, *Aesopus* non & ingeniosus & formosus fuit. Hinc enim nondum liquet, vtram partem falsam putem: instituenda est ergò discretio sic, *Aesopus* non fuit ille quidem formosus, sed tamen fuit ingeniosus, & hic solus est discretorum vsus.

Enunciata per, quanquam, et, tamen, videntur προληπτικα, non διακριτικα, vt,

Hìc *Priamus*, quanquam in media iam morte tenetur,
Non tamen abstinuit &c. Vbi *Virgilius*, nihil discernit, sed lectoris cogitationi occurrit, & contradicit, nam lector videns *Pyrrhum* armatum, facilè obijceret, *Priamum* non audere loqui. Occurrit itaq; *Virgilius* & dicit, quanquam &c. Non tamen &c. Hìc est solus horum vsus. *Piscator.*

Elenchs.

It is a ridiculous discretiue axiome wherein such things are seuered, which naturally go so together, as that they cannot somuch as be seuered in respect, much lesse in deede.

The ninth Chapter.

Of a Syllogisme and his partes.

THus much touching the disposition and iudgement axiomaticall, or of one axiome. Now followeth the disposition of more then one which is called Dianoeticall.

The disposition Dianoeticall **is, when one axiome by reason is inferred of another, or drawne out of another, and then it is called eyther syllogisme or methode.**

A Syllogisme is a disposition of three axiomes, whereby or wherein a doubtfull question disposed with an argument inuented, and the antecedent or former part being put and graunted, is necessarily concluded and determined: for, where an axiome is doubtfull, it maketh a question: therefore for proofe of the truth, wee must inuent a third argument, and dispose it with the partes of the question seuerally, one with the one, and one with the other.

There bee two parts of a syllogisme: the antecedent, and conclusion: The antecedent proueth the conclusion, and hath two partes, to wit, the proposition and the assumption.

The proposition is the first part, wherein the whole question, or at the least, the latter part of the question is disposed with the argument inuented.

The Assumption is the second part, which is taken out of the proposition.

The conclusion is the last part, proued by the antecedent, and concluding the question which was in doubt.

If any part of a syllogisme bee wanting, it is called then an imperfect syllogisme, or enthymeme. If any thing bee added more and aboue these three axiomes appertaining thereunto, that addition is called a prosyllogisme:

The partes also of the syllogisme are oftentimes disordredly and confusedly disposed or placed: notwithstanding, if any doubt shall arise hereof, the axiome which is wanting must bee supplied, the superfluous prosyllogismes or additions must be cut off, and euery part orderly reduced to his owne place.

Annotations.

A Man may heere aske, why I doe not aswell put down the nature of a false syllogisme as I haue done the definition of a false axiome. I aunswere: that, truth and falshode being incident to the nature of an axiome, both were to be put downe, for that in them both, appeareth the fruite of axiomaticall iudgement: but it is one thing to diuide an axiome into that which pronounceth trueth, and that which conteyneth falshode: and another thing, to tell what is a false,

and

and an inartificiall ariome, made against these rules and prescriptions of Arte: the one I did, for it was to bee done: the other, as I did it not in the tractate of ariomes, so will I not do it in this discourse of syllogismes: the ambiguous signification therefore, of this word, false, was the onely occasion of this doubt.

As in Grammer, and Rhetoricke, the naturall ordering of nownes and verbes with other partes of speach is commonly altered and chaunged into a more elegant and artificial coniunction, so in Logike the proposition is not alwaies in the first place: but is diuersly disposed, to auoyde satietie, and suspicion of Arte.

Wee perceaue heere, by the definition of a syllogisme, that the necessitie and vertue of consequence dependeth vpon the orderly disposition of the question with the argument inuented: so that, not the argument properly, but the syllogisticall disposition doth eyther proue or disproue the question.

Hee is greatly deceaued who thinketh there is no part of iudgemeut but onely in syllogismes. For, besides methode; the first, and almost the chiefe kinde of iudgement is in ariomes, yea and the very foundation of all other iudgement. For hereby wee iudge of all the principles of all artes, of all playne and manifest ariomes. Yea all such questions to the which we cannot aunswere yea or nay (as these be: what is it? what partes hath it? where is it? what qualities hath it? when will it come?) are aunswered by this kinde of iudgement. For, if you make answere to that which is demaunded; the hearer is satisfied.

But if these ariomes bee not playne inough of themselues, they must bee sent to syllogisme, there to bee discussed, and so to methode, there to bee ordered. So that, whatsoeuer is eyther by syllogisme, or methode iudged, it is all iudged by the helpe of this first and ariomaticall iudgement. For if the premisses in a syllogisme bee not sometimes certayne and so iudged by ariomaticall iudgement, and graunted; there will bee no ende of making syllogismes: when still wee call the groundes thereof into controuersie, for want of ariomaticall iudgement.

[A Syllogiſme:] συλλογισμος is, as it were, συλλογὴ καὶ ἐπαριτμησις, an Arithmeticall deduction of ſums in accompts, and ſo hére metaphorically of axiomes and arguments.

The neceſſitie of the conſequence in a ſyllogiſme dependeth on that olde ground, that ſuch thinges as agrée in any third thing, muſt alſo agrée among themſelues. As then, in thinges that bée to bée meaſured with line or by weight, wée iudge of them as they agrée both eyther in line or weight: ſo it is alſo when an axiome doth affirme or deny any thing of an other, whereof wée doubt. For, if the line or meaſure, I meane the third argumẽt, agrée with both ỹ parts of the queſtion, it ſheweth ỹ then the affirmation is true: but if it agrée but with one of them, it declareth the negation to be true.

ὅταν τὸ μέσον, ſayth Ariſtotle, ἐξ ἀνάγκης, καὶ τὸ συμπέρασμα ἐξ ἀνάγκης. Non enim ex omnibus propoſitionibus veris ſyllogiſmus duntaxàt efficitur, ſed ex duabus neceſſariò conſequentibus, & inter ſe non minus cohærentibus, quàm annuli inter ſe cohærent. Oportet enim concluſionem ex ſuperiorum propoſitionum conſecutione exprimi.

There is but one kinde of argumentation, and, that is a ſyllogiſme. For, an Enthymeme is nothing but a contracted ſyllogiſme. If the ſubiect be one and the ſame in both the propoſitions, then the Maior wanteth: but if the predicate, then the Minor. Ariſtotle calleth it συλλογισμὸς ἀτελὴς. It hath his name παρὰ τὸ ἐνθυμεῖσθαι, that is in Latine cogitare, & commentari, to thinke, to excogitate, to toſſe a mans minde, and meditate. For the minde neuer reſts when an imperfect ſyllogiſme is put downe, before it hath ſupplyed that which wanteth, the better to iudge of the whole perfect ſyllogiſme: wherevpon the ſatyricall poet ſayth,

aut curtum ſermone rotato,
Torqueat Enthymema. *Iuuenal ſatyr. 6.*

Maiſter Plowden Fol. 361. a. Stowell le ayel fuit eſtrange al fine, et de pleine age al temps del fine leue, ergò il fuit lye. Adde the propoſition herevnto, it will bée a playne and perfect ſyllogiſme. So agayne in the ſame place;

Stowell le demandant fuit eſtrange al fine, et deins age al temps del fine leue: Ergò il eſt exempt. Adde the propoſi-

tion

tion, and this also will bee a full syllogisme.

[The proposition:] in a compound syllogisme, which they call hypotheticall, the proposition, that is, the Maior, as they tearme it, conteines the whole question: but in a simple one, which they tearme a Categoricall syllogisme, it conteyneth onely the later parte of the question, which is called of them prędicatum, or attributum, the predicate or attribute, because it is spoken, affirmed, attributed or applyed to the former.

[The assumption is taken out:] as from a thing put downe and graunted, and now applied more nearely to the purpose, of the Latine, Assumo.

The scholemen haue commonly foure kindes of Argumentations, Syllogisme, Enthymeme, Induction, Example, to the which some adde Sorites and Dilemma: others also there bee, but these are the most famous: and all these, as I sayd before, come all to one. For an Enthymeme is but a contracted and short syllogisme: An example, but an argument from the like or equall, a facto simili seu pari, and no argumentation of it selfe without the helpe of a syllogisme: An Induction, which is called the Socraticall Argumentation, is but an argument concluded by a syllogisme, from the enumeration of the partes: A Sorites, but an Enthymematicall progression by certainy degrees. Tully calleth it Penelopes telam, because it is wouen as it were, by ascending and affirming, but vnwouen againe by descending and denying: the Stoykes vsed this very much: it is called Sorites of σώρος. aceruus, a heape, because, as of many graynes is made a heape of corne, so of many degrées an argument called Sorites, by this enthymematicall progression. Wherevpon the Poet sayth:

Inuentus, *Chrysippe*, tui finitor acerui.

It is commonly called, à primo ad vltimum, but not so aptly, for as well may it bee called, ab vltimo ad primum. As in that which Themistocles was wont to vse:

The Athenians rule all the other Græcians: I rule the Athenians; my wife, mée; my boy, my wife:
Therefore my sonne ruleth all Greece. Or thus,

My sonne ruleth my wife; my wife commaundeth mée:
I the Athenians; the Athenians all Græce:
Therefore my sonne ruleth all Græce.

Maister Plowden Fol.229.b. hath a Sorites of diuers degrées. Le playntife deriue son lease de Cocke, quel deriue son title del Counte del Pembroke, quel deriue son title del roy Edward, quel deriue son title per discent del roy Henry le huict, quel deriue son title per discent del roy Henry le sept, quel deryue son title per le fine, et per le mozant del Marques sans issue. Iscintq; si le plaintife ne proue sufficientment, que le Marques est mozt sans issue, et que le roy auoyt estate en la terre puis sa mozt, il ne proue sufficientment sa title ne interest.

Bracton. lib. 5. Fol. 335. Item, cum nulla summonitio nec defalta, nulla sequi deberet Captio: & cum Captio nulla, nulla sequi deberet possessionis amissio: Ergò à primo, vbi nulla summonitio, nulla sequitur possessionis amissio, quia vbi primum & principale, quod est summonitio, non subsistit, nec ea quæ sequuntur, locum habere debent.

Lastly, a Dilemma, is nothing els, but an argument from the contraries oz oppolites, oz any disagrèable argument. It is called Dilemma, of δὶς, and λαμβανειν, to take on both the sides: because the argumentes are so set, as that there is no way left to escape, as in that of Protagoras the maister, and Euathlus the scholler: where Euathlus gaue some money in hande to his Rhetozicall Doctoz Protagoras, and couenanted to pay the rest when Euathlus should win the first cause that euer hée pleaded foz. Protagoras suing Euathlus foz his money, saide, if Euathlus ouercome mée, then by bargaine & composition hée must pay mée the money; if hée lose, then by the course of Law. Nay q Euathlus, if I lose, then by couenant you get nothing: if I winne, then will the iudgement discharge mée.

The like is that which Bias vsed, and was retozted by Phauorine: If you marry any woman, shée must either bée faire and so shall you haue her κοινὴν, common: oz els fowle; and then you shall finde her ποινην, [illegible]: therefoze mary none at all. Nay, saide Phauorine, there bée women of middle beautie,

beautie, neyther so fine, as to make euery man to loue, nor so foule, as to make euery man hate them. Therfore a man must marry.

So in Arist. 2. Rhet. A certaine precise priest would not suffer his sonne to haue any dealing or conference with the people. For sayth he, if thou speake truth, thou shalt displease men, if vntrueth, God: May rather feare not to meddle with the multitude, for if thou tell the truth, thou shalt please God, if vntruth, men.

Plowden: Fol. 362. Browne a most Logicall Lawyer concludeth his witty disputation with this Dilemma, si Stowell fuit lie per le purueu del statute, il est apres except: si ne'st lye per le purueu, ne besoigne destre except, ergo il est, alarge.

I sayd before, that Exemplum, an example, was but an argument a facto simili, seu pari, and that the onely force of argumentation therin procedeth from disposition syllogisticall: so it is in 4. H. 6. 13. briefe de mayntenance fuit port per deux, ou le tort fuit fayt al troys, la Newton proue que le briefe abatera, quia ne fuit port per touts troys, sic, si le tort fuit en comon, donque eux couyent de prender lour action en comon. et que le tort fuit en comon, ieo prouera, car si eux fuessont nonsuit per cause del mayntenance, cest in comon: si soyssoyent barres per cause del mayntenance, cest in comon, et les expenses del suite sont en comon. ergo, &c.

Neither in these, nor in that called βιαιον Violentum, and such like, is there any new disposition or art of consequence, but onely that of syllogisme.

[A prosyllogisme:] Vide 4. H. 6. 30. In repl bastardie fuit alledge in le maister le auowant, le question fuit, an il auera ayd de son maister, deuant que il reioyne al bastardy, et per Martyn, il ne auera.

Le syllogisme est issint.

Ou nul entry del ayd, la nul ayd.

Si ascun entry del ayd icy, il serra vel ceo que est deuant ple, s. petit auxilium d'un tiel, sine quo ipse non potest respondere: vel apres ple, s. petit auxiliū ad manutenendum exitum, le consequens est proue,

Icy nul entry del ayd, car mes icy.

Il nauera lentry deuant ple, s. sine quo nō potest respondere, car il mesme ad responde, s. ad fayt Conusance.

Nec l'entry apres, ad manutenendū exitum, car icy nul issue est ioyne inter eux.

Ergo nul entry omnino.

Ergo nul ayd icy.

ne sont plusors que deux maners de entries del ayde, deuant ple, ou apres, l'un in reall action, lauter in personell.

Ergo si soyt omninò, oportet quòd sit vel hoc, vel illud.

In 3. H 6. 21. b. Rolf vsa vne prosyllogisme, vide le licu.

Canons, Elenchs.

In euery simple syllogisme that is not proper, there must be some affirmatiue and generall argument.

Interdum quoq; simplex syllogismus ex enunciatis compositis constare potest, si modo compositio ipsa argumenti simplex sit. Vt apparebit aliâs. *Freigius. Snellius. Ramus.*

Hére then generally it is a false syllogisme, when all the axiomes bée either negatiue or proper. Ex omnibus enim specialibus, aut negatis, nullus communis syllogismus in vlla figura simplici, concluditur. *Ramus.* 2. lib. animaduers.

Proximum genus syllogismi & Methodi ignoratur, itaq; ponitur dispositio.

Vt

Vt in connexo & disiuncto axiomate veritas pendet ex connexione & disiunctione, non veritate partium, sic syllogismus ex necessitate consequutionis, licet omnes partes sint impossibiles, vt, omnis arbor est lapis, omnis leo est arbor, ergo omnis leo est lapis.

In euery syllogisticall conflict and controuersie, there is a defendant & an opponent. The first is to vrge, proue, conclude; the other to repell, auoyd, and driue backe. The disputation being once begon, it is an vnorderly confusion for the same man sometimes to aunswere, sometimes to reply, and neuer constantly to playe out his owne parte: much like the two clownes in Virgill, which, when they could not aunswere what was propounded, begin a freshe with a new doubt on the necke of the olde: Dic, quibus in terris, quoth the one, and Dic, quibus in terris, quoth the other, Arrede me a riddle, sayth Damætas: and Arrede me a riddle replyeth Menalcas, thincking it a faire conquest, to haue taken and giuen blowe for blowe, as Bakers and Butchers vse to doe, who neuer care for any curious warues, but lay on loade like good fellowes, one for one, till both begin to stagger, with their valiant blood about their bruised pates. I haue therefore in a word or two, layd downe some generall instructions and directions for orderly disputations.

Logicall exercise is that which expresseth that in particular practise which is generally put downe in art. For as art followeth nature, so exercise foloweth art Herein let vs consider

- 1. The adiuncts & affections of it, for it is performed.
  - either by writing
  - or speaking.
- 2. The specials of it. Vide A A.

& either of these is either

- continued, as in long discourses & tractats.
- or interrupted as, in
  - Dialogues.
  - Disputations. Vide B B.

BB. Disputation is an argumentable discussing of a doubtfull propositiõ. where note.

1. The disputers
- The proponent, who defendeth the proposition or position: whereunto also the modera tor and determiner of the disputation is referred, who commonly maintaineth the position.
- The opponent, whoe defendeth the contrary.

2. The duties of the disputers, eyther,

- commõ to both them, as in
  - of instruments for the disputation, as bee
    - Logike.
    - Rhetorike
  - preparation and furniture, things requisite for the same, it must be noted therfore.
    1. What may confirme or confute the position.
    2. What sect of philosophy the aduersary followeth.
    3. They must haue in memory the generall heades of artes, which are commonly vsed in disputations.
- Proper to eyther of them. CC.
  - Cõflict and assault: they must neither
    - Wrangle about trifling wordes,
    - Nor make long and impertinent excursion and vagaries.
    - Nor seeke starting holes.
    - Nor bring in any such thing as may rather make against them, then with them.
    - Nor seeke to supplant or circumuent one another iniuriously.
    - For ouerweene themselues, or be obstinate and singuler in conceipt.
    - Nor fal to threatning and railing with vndecent tearmes.

CC. The proper duties of the

Opponent be

1. To haue his weapons in a readines, that is, to haue his obiections framed artificially with syllogisticall disposition.

2. Not to cast his argumentes confusedly on a heape, but to vse them distinctly, one after another.

3. To haue Prosyllogismes in a readynes, for the confirmation of such parts of his syllogismes, as may by likelyhood, be denied.

4. To bring in nothing which hath not some probabilitie or shew of truth in it.

5. Sometimes to deale directly & openly: sometimes couertly, and by bringing his aduersary to an absurditie or impossibilitie.

6. Neuer to choppe in impertinent matters, which make nothing at all to the matter in controuersie.

Defendent be

1. In choise of his position, that it be not

- Repugnant to sence.
- Contrary to equity & honesty.
- Too hard and difficult.

2. Both in

- Repetitions of the obiections made, & that either by the selfe same words, or with the selfe same sence, in the like order as they were propounded: with a kind of curteous preface: that both himselfe may haue some meane-space of conceauing a solution, and the auditors better vnderstand what was obiected.
- And also in aunswering of the same.

DD. The obiectiõs be aunswered.

either

By skorning, and reiecting, if absurd fooleries be obiected, or such as no man vnderstandeth.

By graunting and confessing, when such thinges bee brought in, as make nothing against the position.

By affirming or denying, when any interrogation is made: or els by asking what he meaneth by his interrogation, if it be ambiguous and sophisticall.

Or by direct solution, & that

either perfect, when the very cause is shewed, why the conclusion is not sufficient, and it is

1. by denying either of

The premisses and prosyllogisms when they be false.

Or the consecution & consequence, when the fault is in the forme of conclusion: for the conclusion it selfe must neuer be denied.

2. eyther

by distinguishing when eyther

The questions and interrogatiõs be captious and doubtfull.

Or the premisses bee true not absolutly, but in part. And here fryuolous distinctions must be auoyded.

Or conditionall graunting, as I graunt, if you so vnderstand it. Sometimes the defendent doubteth of the truth of some one of the premisses, and doth therfore leaue it of purpose to aunswere to the other that is more plaine, Thus, Let the Maior passe for a whyle, I now aunswere to the minor.

Imperfect by bringing in some instance, that is by taking a particular exception to a generall proposition.

- A A. so much of ỹ affections of this logicall exercise ỹ spectals now follow, which bee
  - Analysis, in vndoing & examining that which is already made, & is
    - eyther belõgyng to Inuention: as
      - to search and inuent the question it selfe.
      - to picke out the arguments and proofes.
      - do refer them euery one to their seueral heads, & there to inquire of their sufficiency, as whether ỹ be vsed for a Cause which is no cause, &c.
    - or to Disposition & that either
      - Axiomaticall, where all the axiomes must be also brought to their heads, and their truth or falsnes diligently examined.
      - or Dianoeticall which is eyther
        - Syllogisticall, for the examination and triall of consequution, what followeth, or not followeth.
        - Methodicall, for proofe of order and Methodicall handling of the matter discoursed vpon.
  - Genesis, in making or framig of any thing by our owne industrie, & that eyther by
    - way of imitation and that either
      - of the whole worke
      - or of some part
      - eyther of these is
        - in wordes, called Translation.
        - in things called properly imitatiõ. wee must Imite
          - neyther all autors, but the best of all
    - Or by proper Inuention, where we must
      - First peruse euery place of Logicall inuention for the inuenting of proofes and arguments.
        - to fanc...
      - then dispose them artificially both by iudgmẽt
        - Axiomaticall:
        - and Dianoeticall & that both
          - Syllogistical.
          - Methodicall.

The tenth Chapter.

Of a simple syllogisme.

A Syllogisme is eyther simple or compound. The simple is that, wherein the later part of the question is disposed in the proposition, the former part in the assumption, and is affirmatiue when all the partes be affirmed: Negatiue, when the conclusion with the proposition, or the assumption is denied. Generall when the proposition and assumption be generall; Speciall, when one of them onely is generall: Proper, when both of them are proper or singuler.

The eleuenth Chapter.

Of the contracted syllogisme.

There bee two kindes of simple syllogismes. The first when of the former argument in the proposition either affirmed or denied, but in the assumption affirmed, the conclusion is speciall.

Affirmatiue generall.

Da- Constancy is a vertue.
Constancy is confidency,
Therefore some confidency is a vertue.

Neg. generall.

Rashnesse is no vertue,
Rashnesse is confidency:
Some confidency is no vertue.

Affir. speciall.

Di- Some wise man is rich,
sa- Euery wise man is prayse worthy,
mis. Some prayseworthy man is rich.

Da- A wise man is prayseworthie,
ti- Some wiseman is poore,
si. Some poore man is prayse worthie.

Neg.

Neg. speciail.

Bo- Some fole is not fortunate,
car- Euery fole is contemned,
do. Some contemptible man is not fortunate.

Fe- Foles bée not happy.
ri- Some foles bée fortunate,
son. Some fortunate men bée not happy.

Affir. proper.

Socrates is a philosopher,
Socrates is a man,
Some man is a philosopher.

Neg. proper.

Therfites is no philosopher,
Therfites is a man,
Some man is no philosopher.

But the clearenes of reason and iudgement requireth no such disposition, but is content with a more contracted kinde of argumentation. This contraction is, when the argument inuented to a particular question, is put for an example, in such sort, that it go before eyther part, and bée affirmed in the assumption, thus:

Some confidence is vertue, as Constancie:
Some confidence is not vertue, as Rashnes.

For héere the argument inuented commeth before both the partes of the question, as though it were expressed thus:

That constancie is a vertue, and confidencie a vertue,
Therefore some confidencie is a vertue. And,
Rashnes to bée no vertue, yet a kind of confidency,
Therefore some confidency to bée no vertue.

And after this manner, Vse, the mayster of syllogisticall iudgement, doth alwaies contract it, and neuer otherwise expresse it. So in that example.

Ascun Husbandman tua sa file, come Saunders; which, if you expresse it, will bée thus:

Saunders poysoned his daughter,
Saunders was an husbandman,
Therefore some husbandman poysoned his daughter.

Annotations.

This chapter conteyneth the third figure of Aristotle.

In all those artificiall wordes, Darapti, Felapton, &c. and others of the same kinde, there bee certeine significant letters to be obserued, as, A, signifieth a generall affirmatiue axiome: E, a generall negatiue: I, a speciall affirmatiue: O, a speciall negatiue: besides some consonantes which bee notes of Reduction, which I little esteeme of.

The olde verses bee thus,

Asserit, A: negat, E: sunt vniuersaliter ambæ:
Asserit, I: negat, O: sunt particulariter ambæ.

Valla reiecteth this contracted syllogisme, so doth Scribonius, sith, as they thinke, there is no example hereof to bee found: and by Scribonius, there is no new syllogistical disposition heere, but onely an argument from the speciall. But Lazarus Schonerus, adducit hęc exempla, Primum est in *Miloniana*. Negant intueri lucem fas esse ei, qui à se hominem occisum fateatur. In qua tandem vrbe hoc homines stultissimi disputant? Nempè in ea quæ primùm iudicium de capite vidit, *M. Horatii* fortissimi viri, qui nondum libera ciuitate, tamen populi Romani comitijs liberatus est, cùm sua manu sororem esse interfectam fateretur, syllogismus hic est,

M. Horatius populi comitijs absolutus est,
M. Horatius confessus est se sua manu cędem feciſſe,
Ergò aliquis à se hominem occisum fassus, est absolutus.

Item in eadem. Quod si duodecim tabulæ nocturnum furem quoquo modo, diurnum autem, si se telo defenderit, interfici impunè voluêrunt, quis est, qui quoquo modo quis interfectus sit, puniendum putet, cum videat aliquando gladium ad occidendum hominem ab ipsis porrigi legibus?

Syllogismus hic est.

Furem nocturnum interficere licet,
Furem nocturnum interficere, est hominem occidere,
Ergò hominem occidere aliquando licet.

Huius generis est illud,

Riuos deducere est licitum diebus festis,
Riuos deducere est opus rusticum,
Quędam igitur opera rustica sunt licita festis diebus.

Virgilius sic iudicat, 1. *Georgic.* sed pro argumento exemplum sextuplex, subijcit particulari quęstioni.

Quippè etiam festis quædam exercere diebus
Fas & iura sinunt: riuos deducere, nulla
Relligio vetuit, segeti prætendere sæpem,
Insidias auibus moliri, incendere vepres,
Balantumq; gregem fluuio mersare salubri.
Sepè oleo tardi costas agitator aselli,
Vilibus aut onerat pomis, lapidemq; reuertens
Incusum, aut atræ massam picis vrbe reportat.

Exempla specialia suo generi particulariter sic interdum in artium pręceptis accommodantur, quale est illud de similitudine, lib. 1. dialecticæ *Rameæ*, cap. 20. aliquando nota nulla est, *Virg. Aeg.* 2. O formose puer &c. Syllogismus hic est.

In hoc exemplo nota est nulla.
Est autem similitudinis:
Ergò aliquando similitudinis nota est nulla.

Sic in *Rami* Arithmetica, lib. 1. cap. 1. Numerus potest esse minimus, vt vnitas, syllogismus hic est.

Vnitas est res minima.
Vnitas est numerus:
Aliquis igitur numerus est minimus &c.

Elenchs.

Among all these syllogismes, there is not any one good, where the assumption is negatiue.

The twelfth Chapter.

The explicate Syllogisme.

IN a Syllogisme simple of the seconde kinde the proposition must bee alwayes generall or proper: the conclusion negatiue, if either the proposition or assumption bee negatiue.

There bee two kindes of them: The first wherein the argument inuented doth follow both in the proposition & assumption, and must bee denyed in one of them.

The first generall; Piers in May.

Cæ- He that plaieth while his flocke is vnfed, can giue no accompt to great God Pan,

Sa- A good shepheard can geue accompt to great God Pan.

Re: Therefore a good shepheard playeth not while his flocke is vnfed.

Maister Plowden Fol. 213. b.

Ce- Nul secret verdit del iurors fait le plaintif nonsue,

Sa- Chescun verdit de droit bien rendue, fait le plaintife nonsue.

Re. Ergò Nul verdit bien rendue, est secrete.

The second generall in May.

Ca- The hyreling letteth his sheepe runne at randon:

Mes- The good shepheard letteth not his sheepe runne at randon, Therefore

Tres. The good shepheard is not a hyreling.

Maister Plowden: Fol. 5.

Ca- Chescun bone agreément conuent esse perfect,

Mes. Nul incerteine agreément est perfect:

Tres. Ergo nul incerteine agreément est bone agreément.

The first speciall in Iuly.

Fes- A good shepheard is not idle:

Ti- Paris is idle, therefore,

no. Paris is not a good shepheard:

Maister Plowden: Fol. 28. b.

Fes- Nul bone remaynder poet cõmencer sur conditiõ:

Ti. Cest remaynder fait per le priors de bath a William Beiushin est limite de commencer sur condition, s. si ipse habitaret, & residens esset &c. *Ergo*

No- Cest remaynder n'est bone remaynder.

The second Speciall.

Ba- Hée that sitteth safely sitteth below:

Ro- Algryn did not sit below, Therefore

Co. Algryn sate not safely.

Maylter Plowden: Fol. 34. a.

Ba- Chescune bone condition est compulsiue,

Ro- Cest limitation en William Beiushin, n'est compulsiue.

Co.

Co. Ergo cest limitation nest bone condition.

The first proper.

Morrels brayne was not bruſed by an Egle,
Algrins brayne was bruſed by an Egle,
Therefore Algrin is not morrell.

Mayster Plowden, Fol. 101. a.

Iohn vane Salisbury ne tue Olyuer ap Dauid auec malice prepence:
Richard Salisbury tue Olyuer ap Dauid auec malice prepence. Ergo,
Richard vane Salisbury n'eſt Iohn &c. vel,
N'eſt d'eſtre acquite, come, Iohn &c.

The ſecond proper.

Paris was prowd
Moſes was not prowd, Therefore
Moſes was not Paris.

Mayster Plowden: Fol: eodem.

Richard Salisbury fuit murderer,
Iohn vane Salisbury ne fuit murderer Ergo,
Iohn n'eſt ſemblable al Richard &c.

Annotations.

NEgatiue if:] Hereupon the ſchoolemen giue out this rule. Concluſio ſequitur deteriorem partem. For a Negation is worſe then an affirmation, as wee haue heard already. But that which they put downe generally as incident to all ſyllogiſmes is heere artificially ſet downe in his proper place.

Others haue left out theſe two laſt kindes of ſyllogiſmes; but iniuriouſly: for they are as artificiall as the reſt, and oftentimes vſed to diſcerne ſingulers that ſeeme to be the ſame. Singularia, ſay they, non conſiderantur in arte &c. abſurdè. Nam tota Aſtrologia eſt de ſingularibus de ſole &c. tamen precepta ſunt catholica. Sic in foro, curia, roſtris, &c. omnia ſingularia. Sic accuſare ſolemus hunc, defendere illum, &c. Omnia ſingularia.

As before, the contracted ſyllogiſme was according to the diſpoſition of the third figure put downe by Ariſtotle, where

the Medium is the former part in eyther of the premisses: so this first kinde of the explicate syllogisme is the same that Aristotle comprehendeth in his second figure, where the Medium, or third argument is the later part in eyther premisse. Lastly, the second kind of explicate syllogismes, which followeth in the next chapter, is conteined in the first Aristotelicall figure, wherein the third argument is the former part in the proposition, and the later part in the assumption: according to the verse:

Sub, præ, prima: bis prę, secunda: tertia, bis sub.

Annotations. Elenchs.

NO good syllogisme can bée made in this kind, if eyther all the ariomes bée affirmatiue, or the proposition bée speciall, as,

That which vseth reason is best,
The world is best.
Therefore the world vseth reason.

For so (sayth Cotta in the third booke of Cicero concerning the nature of Gods) a man may conclude, that because nothing is better then the whole world, therefore the world can play on the Lute.

Yet I say not this, as though no truth could bée concluded by the like disposition: for, true things are sometimes concluded by sophisticall and deceiptfull disposition, as that of Persius in his fift satyre.

An quisquam est alius liber, nisi ducere vitam
Cui licet, vt voluit? licet, vt volo, viuere: Non sum
Liberior *Bruto*?

Hée is frée that liues as hée list,
I liue as I list, therefore I am frée.

But it is therefore noted as sophisticall, for that, of true thinges, by the selfe same disposition, an vntrueth may bée concluded. As,

A man is a liuing creature,
A horse is a liuing creature. Therefore,
A horse is a man. Agayne,
Hée that affirmeth a man to bée a liuing creature, sayth truely.

Hée

Hée that sayth, thou art an asse, affirmeth a man to bée a liuing creature. Therefore

Hée that sayth, thou art an asse, sayth truely.

Thus much for the first fallatian, when all the ariomes hée affirmatiue. The second followeth, when the proposition is speciall, as in that which was obiected against Diogenes.

Thou hast that which thou didst neuer loose,
But hornes thou didst neuer loose,
Therefore thou hast hornes.

For if you resolue it thus,

Hée hath hornes that neuer lost hornes,
Diogenes neuer lost hornes,
Therefore Diogenes hath hornes.

Then eyther the proposition will be false, if it bée generall, or the syllogisme will proue sophistical, if it be speciall.

The proper duetie therefore of a syllogisme is, to lay downe a certaine, true, and infallible rule of reasoning in such sort, that the premisses once graunted, the conclusion must in any case follow, and therefore this maner of reasoning, as all such like, is left out, as not artificiall, constant, and immutable; but, doubtfull, vncertaine, and deceiptfull. For, although sometimes thereby a trueth may bée concluded, yet séeing that it also for the most part causeth error, it is not admitted as a law syllogisticall.

The 13. Chapter.

Of the second kinde.

IN this second kinde, the argument goeth before in the proposition, and followeth affirmatiuely in the assumption.

The generall affirmatiue.

Bar- That which bringeth to good, is good.
Ba- Death bringeth to good, Therefore
Ra. Death is good.

Colyn in Nouember.

Vnwise and wretched men to weete what's good or ill,

Wee

Wee deeme of death as doome of ill desert:
But knew wee fooles what it brings vs vntill,
Dye would wee daily once it to expert.
Faire fields and pleasant layes there beene,
The fields ay fresh, the grasse ay greene.
ô happy hearse:
Make hast ye shepheards thither to reuert,
ô ioyfull verse.

Maister Plowden Fol. 315. a.

Bar- Les choses pluis excellents del terre perteignont al roy,
Ba- Dre est le chose plus excellent del terre:
Ra. Ergò dre perteigne al roy.
The generall negatiue.
Ce- Men must not bée bound to more misery then men can beare,
La- Shepheards bée men,
Rent Therefore shepheards must not bée bound to more misery then &c.

Hobbinoll in September.

Ah *Diggon*, thylke same rule were too strayte,
All the colde season to watch and wayte,
Wee bene of flesh, men as others be,
Why should wee be bound to such misery.
What euer thing lacketh changeable rest,
Mought needes decay when it is at best.

Maister Plowden Fol. 332. b.

Ce- Ceo que vient al roy en respect que il est possessor del corone, ne passera per graunt del terre,
La- Dre vient al roy come possessor del corone:
Rent Ergo, dre ne passera per grant del soile.
The speciall affirmatiue.
Da- Hée that hath loued, ought to pitie louers,
Ri- Pan hath loued,
j. Therefore Pan ought to pitie louers.

Colyn in January.

And *Pan* thou shepheards god, that once didst loue,
Pitie the paines that thou thy selfe didst proue.

Da-

Maister Plowden Fol. 64. a.

Da- Cestuy que prist obligations come vicount pour lesser home a mainprise, fayt ceo colore officij,

Ri- Lewis Dyue prist obligatiõ de Iohn Maningham &c.

j. Ergo Lewis Dyue fayt ceo colore officij.

The speciall negatiue.

Fe- The pipe which pleaseth where it should not, shall not bée kept,

Ri- Colyns pipe pleaseth where it should not,

O. Therefore Colyns pipe shall not bée kept.

Wherefore, my pipe, although rude *Pan* thou please,
Yet for thou pleasest not where most I would,
And thou vnlucky muse that wontst to ease
My musing minde, yet canst not when thou should,
Both pipe and muse, shall sore the while aby,
So broke his oaten pipe, and downe did lye.

Maister Plowden Fol. 64. b.

Fe- Nul obligation fait pur ayder le vicount pur vn tort, n'est loyall,

Ri- Cést obligation de Maningham al Dyue est fait pur ayder le vicount pur vn tort,

O. Ergo cest obligation n'est loyall.

The proper affirmatiue in Iuly.

The great God Pan saued his flock with blody sweat,
Christ is the great God Pan,
Therefore Christ saued his flocke with blody sweate.
O blessed sheepe, ô shepheard great,
that bought his flocke so deare,
And them did saue with bloody sweat
from wolues that would them teare.

Maister Plowden, Fol. 401. a.

Richard Cole tue Elizabeth Penbrooke,

Cestuy que done le coupe le 12. iour del February, est Richard Cole,

Ergo cestuy que done le coupe, tue Elizabeth Penbroke.

The proper negatiue, in Aprill.

Elysa cannot bée blemisht with any mortall blot,
Shée that sits vpon the grassy greene, is Elysa.

Therfore she that sits vpon the grassy gréene cannot bée blemisht with any mortall blot.

Maister Plowden Fol. 475. a.

Alexander Archer ne fuit culpable del mort del Elyanor Saunders,

Cestuy que counsel Iohn Saunders de tuer sa feme, fuit Alexander Archer,

Ergò cestuy que counsel &c. ne fuit culpable del mort del Elyanor Saunders.

Annotations.

BArbara, is fittest for a general confirmation; Celarent, for a generall confutation; Darij, serueth to proue in parte, Ferio, to disproue in parte, according to those two olde schoole verses which I rehearsed before.

As for that kinde of demonstration of syllogismes which is done by Reduction, it is more troublesome than néedfull. For, syllogismes, if they bée once artificially made, néede no further demonstration, as béeing of themselues sufficiently confirmed by their seuerall definitions, diuisions, examples, and explications.

Elenchs.

The syllogisme is héere nought, if eyther the proposition bée speciall, or the assumption negatiue, as,

Aliquod animal est equus:
Omnis homo est animal;
Homo igitur est equus. And,

Omnis homo est animal:
Nullus equus est homo
Nullus igitur equus est animal.

The 14. Chapter.

Of the first kinde of a connexiue Syllogisme.

THus much for the simple syllogisme. The compound syllogisme is that wherein the whole question maketh the one part of the proposition affirmed and compounded: And the argument inuented

ted, maketh the other part of the proposition, or is conteyned in it.

To deny or remoue any part in a compound syllogisme is to set downe the speciall contradiction thereof.

The compound syllogisme is eyther connexiue, or disiunctiue.

The connexiue is that whose proposition is connexiue, and is made after two sortes.

First when the former part of the proposition maketh the assumption, the later part the conclusion. As in this,

And if that my grandsire mee sayd bee true,
Sycker I am very sib to you.
If my grandsire tolde mée truth, I am sib to you,
But my grandsire tolde mée truth,
Therefore I am sib to you.

Maister Plowden Fol. 76. a.

Si le briefe est fait en le noisme du roy, et seale oue son seale, adonques est le fait le roy.
Mes icy, ceo briefe, est fayt en le noisme &c.
Ergò est le fait del roy.

Héere oftentimes the former parte of the proposition maketh not the assumption, but that which is greater, and of more force to conclude then it is, as,

If there were none but other beasts thine enemies, yet oughtest thou to take héede,
But now the Fox also, the maister of collusion, is thine enemy,
Therefore much more oughtest thou to take héede.

Piers vseth this in May, in the gates speech to her little one.

Kiddy, quoth she, thou kenst the great care
I haue of thy wealth and thy welfare,
Which many wilde beastes liggen in wayte
For to intrap in thy tender state:
But most, the Fox, maister of collusion,
For he has vowed thy last confusion.
For thy, my kiddy, be ruled by mee,
And neuer giue trust to his trechery.

And if he chaunce come, when I am abroade,
Sperr the yate fast, for feare of fraude:
Ne for all his worst, nor for his best,
Open the dore at his request.

Maister Plowden: Fol. 11. a.

Si nul forsques vn comen person est grauntée, ou donée, vncore les parolles ambiguous serra prise pluis beneficialment a luy.

Mes icy, le roy mesme est grauntée ou donée,
Ergo, a multo fortiore, les parolles doubtfull serra pluis beneficiall a le roy.

The same kinde of syllogisme or reasoning is framed by a coniunction of time, with the same force, which this conneriue hath, As

When night drawes on, it's time to goe homeward,
But now night drawes on, Therefore
it's now time to get homeward.

Willy in March.

But see, the Welkin thicks apace,
And stouping *Phebus* steepes his face,
It's time to haste vs homeward.

Mayster Plowden: Fol. 263. a.

Quant sir Iames Hales mette luymesme en le eawe, donques il forfetoit ses biens.

Mes il mette luymesme en le eawe, quant il fuit en vie,
Ergò, quant il estoit en vie, adonques il forfetoit ses biens.

Annotations.

THe speciall contradiction:] when that which was affirmed in generall, is denyed in speciall: or contrarily, affirmed, when it was denyed: and when the same thing in speciall, is both affirmed before and denyed after.

[Connexiue or disiunctiue:] So then of an axiome copulatiue or discretiue, wee vnderstand, that no seuerall and peculier disposition ariseth.

Vide 10. E. 4. Lyttleton contra Danby: si le properties des biens le mort soit en ascun, tunc serra in le testator,

veli

bel in les executors: mes cest en ascun, ergò in l'un ou l'auter: cest connexiue: Then agayne:

Le propertie est in le testator, ou in les executors,
Mes nemy in le testator,
Ergò in les executors: cest vn disiunctiue.

In composito syllogismo, assumptio, præter argumentum, nihil assumit quæstionis; quod tamen fit semper in simplici syllogismo.

If not the whole question, but onely the latter part of it bée conteyned together with the argument inuented, in the proposition, then the syllogisme is simple, although the proposition bée compound. For as I sayd elswhere, whensoeuer the disposition is simple, there the syllogisme is simple, though the partes bée compound. So that in Catullus is a simple syllogisme. 1. Gen.

Si quicquam cupidoq; optantiq; obtigit vnquam &
insperanti, hoc est gratum animo proprie.
Quarè hoc est gratum nobis, quoq; charius auro,
quod te restituis, *Lesbia*, mî cupido,
Restituis cupido, atq; insperanti ipsa refers te
nobis: ô lucem candidiore nota.
Quis me vno viuit fœlicior? aut magis hac quid
optandum vita dicere quis poterit?

Ramus format sic:

Quod optandum redierit, gratum est,
Lesbia Catullo optata redijt:
Optata igitur est.

So in 2. Gen.

Si quicquam sit homo, tum erit animal,
Lapis non est animal,
Lapis ergo non est homo.

Nay, which is more, the syllogisme may bée simple, though all the partes bée conditionall and compound, thus:

Si sit honestum, erit laudabile,
Si sit iustum, erit honestum,
Ergò si sit iustum, erit laudabile. As Ramus more at large putteth downe in his French Logike.

Elenchs.

There bée two other conneriue syllogismes different from these already rehearsed: but because they are not certayne, constant, and alwayes infallible: therefore they be not put downe in the text, as precepts of Art: yet are they diligently to bée obserued, for they are often in autors: especially the first, which is very vsuall: but the second is not so common.

The first kinde is that which taketh away the former part, that it may also take away the later. Terence in Adelphis.

Dem: Cæterum.

Placet tibi factum Mitio? Mi: Non, si queam mutare: nunc cum non queo, æquo animo fero.

Cicero for *Muræna*.

Etenim si largitionem factam esse confiterer, idque rectè esse factum defenderem, facerem improbè, etiamsi alius legem tulisset. Cùm verò nihil commissum esse contra legem defendam, quid est quod meam defensionem latio legis impediat?

Ouid in his second booke of sorrowfull songs.

Si, quoties peccant homines, sua fulmina mittat
Iupiter, exiguo tempore inermis erit:
Nunc vbi detonuit, strepituq; exterruit orbem,
Purum discussis aëra reddit aquis.
Iure igitur, genitorq; deûm, rectorq; vocatur:
Iure, capax mundus nil *Ioue* maius habet.

Cæsar in *Salust*. Si digna pœna pro factis eorum reperitur, nouum consilium approbo: sin magnitudo sceleris omnium ingenia exuperat, his vtendum censeo, quæ legibus comparata sunt.

Colyn in June hath the like.

But if in mee some little drops would flow
Of that the spring was in his learned head,
I soone would learne these woods to wayle my woe,
And teach the trees their trickling teares to shed.
Then should my plaints, causd of discurtesie,
As messengers of this my plainfull plite,
Flye to my loue where euer that she bee,

And

And pierce her hart with poynt of worthy wite,
As she deserues that wrought so deadly spite.
And thou *Menalcas*, that by trechery
Didst vnderfong my lasse to wexe so light,
Shouldst well be knowne for such thy villany.
But since I am not as I wish I were,
Ye gentle shepheards which your flocks doo feede,
Whether on hils, or dales, or otherwhere,
Beare witnesse all of this so wicked deede,
And tell the lasse whose flower is waxe a weede,
And fautles fayth is turnd to faythles pheare,
That she the truest shepheards hart made bleede
That liues on earth, and loued her most deare.

For, although all the examples of this kinde bee not false and deceiptfull, but good and sufficient, as in these now rehearsed; yet, false may bee concluded by the selfe same disposition, as

Si arbor equus est, viueret:
Sed arbor equus non est:
Non igitur arbor viuit.

In which example, the proposition and assumption are both true, yet the conclusion is false: but it is the office of a syllogisme, as hath beene sayde, to lay downe, a necessary, perpetuall, and immutable rule, by the which, vppon the premisses once graunted, the consequence must bee necessary.

The second, which is not so vsuall, is that which taketh the latter parte, that it may also haue the former concluded, as in that of Ouide in the fourth booke of his transformations.

Quem si cura deûm tam certa vindicat ira,
Ipse precor serpens in longam porrigar aluum:
Dixit; et, vt serpens, in longam tenditur aluum.

The argumentation is thus:

Si dij statuêrunt vindicare *Cadmum*, fiat serpens:
Sed fit serpens:
Ergo dij statuêrunt vindicare *Cadmum*.

Take

Take an other example, and you shall see, that by the same rule you may conclude that which is starke false, As

Si arbor equus esset, viueret:
Sed viuit arbor:
Ergo, arbor equus est.

For here the forerunning axiomes being both true, the conclusion for all that, is manifestly false. This is called of Aristotle an Elench of the consequent: yet in trueth it is no Elench of argument, but of argumentation: when wee are perswaded foolishly that the consequution is reciprocall, and that the putting downe of the one bringeth in of necessitie the other, and contrarily, As,

Si cygnus est, albus est color. This followeth.
Sed albus est color, } It followeth not.
Cygnus igitur est. }

So, that of Melissus.

Si quid factum est, habet principium,
Ergo si principium habet, etiam factum est

The consequution, sayth Aristotle, is not reciprocall.

Ramus in the 20. of his Logicall animaduersions, the first Chapter sayth thus.

Theophrastus autem & *Eudemus* docuerunt in connexo, Antecedentis negati, & consequentis affirmati tolli posse antecedens, vt tollatur consequens: & consequens retineri, vt retineatur antecedens. In quo genere, etsi rarus error est, est tamen aliquando: Vt,

Si nullum animal est irrationale, omnis homo est rationalis.
Sed aliquod animal est irrationale:
Ergo aliquis homo non est rationalis.

Item,

Sed omnis homo est rationalis,
Ergo nullum animal est irrationale.

Cum maius aliquid concluditur, videntur esse tres termini, sed reuera, res illa maior continet rem ante propositam in se, & quiddam amplius: Itaq; tres tantum termini sunt.

The

The 15. Chapter.

Of the second kinde of a connexiue syllogisme.

THe second connexiue is, wherin the later part of the proposition is remoued in the assumption, that the former also may bée remoued in the conclusion, As

If thou hadst bene ruled by mée, thou shouldest haue left that vnlucky soyle.
But thou didst not leaue that vnluckie soyle:
Therefore thou wast not ruled by mée.

Maister Plowden: 281: a.

Si apres le mort le testator, tambien l'ordinary, come l'executor aueroit le propertie del biens le testator, adonques serront deux properties d'une chose.
Mes deux properties ne sont d'une chose,
Ergò apres le mort le testator &c.

The 16. Chapter.

Of a disiunctiue syllogisme.

THe disiunctiue is that whose proposition is disiunctiue: and is framed after two sortes also.

The first doth remoue one part of the proposition in the assumption, and inferreth the other in e conclusion.

Or Diggon her is, or I missay,
But I do not missay,
Therefore her is Diggon.

Maister Plowden Fol. 295. b.

Du Iohn Carrell ayel al enfant de part son pere, ou Elisabeth Cuddington ayels al enfant de part sa mere, doit estre gardeine in socage al dit enfant en manor de Suytterton:
Mes nemy Elisabeth Cuddington:
Ergo Iohn Carrell.

The second is that which maketh the assumption of one

parte of the proposition beeing affirmed, and remoueth the other in the conclusion, as,

Or Diggon her is, or I millay,
But her is Diggon,
Therefore I do not millay:

Maister Plowden, Ibidem.

Du Iohn &c. ou Elisabeth &c.
Mes Elisabeth doit estre gardeine &c.
Ergò nemy Iohn &c.

The same syllogisme is also made of a copulatiue proposition beeing denyed, because it hath the same force with a proposition disiunctiue beeing affirmed, as,

Shepheards cannot liue in pleasure and paine at once;
But they must liue in pleasure:
Therefore not in paine.

Maister Plowden Fol. 281. a.

Le executor, et le ordinary ne poyent auer le profite del byens le testator ensemble, apres le mort le testator:
Mes le executor le auera:
Ergo nemy le ordinary.

Annotations. Elenchs.

FOr the first, if the assumption conteine not a speciall, but a generall contradiction, the syllogisme will bee sophisticall.

For the second, if the proposition haue not all his partes affirmatiue, the syllogisme is sophisticall.

The proposition in a syllogisme is commonly fet from some grounds of liberall arts, as Logike, Rhetorike, Ethike, Physike, &c.

It is not a syllogisme, vnlesse it conclude and iudge necessarily: yea, notwithstanding, the premisses of themselues bee false.

Syllogisme is onely proper and peculiar to man; whereof, no beast doth in any respect participate.

Strict syllogismes bee neuer lightly vsed among authors, but eyther contracted or amplified, or els inuerted, as I sayde before. The quicknes of mans wit is such, that it conceaueth

the

the whole sometimes without any proposition, another while without any assumption, and now and then it preuenteth and foretaketh the conclusion.

Ramus in his French Logike reduceth all the Oration which Tully made in defence of Milo to these three lines, making one simple syllogisme.

Le guetteur et espieur meschant est iustement occis:

Car l'autorité du peuple, et des iudgements du Senate, de *Marie*, de la ley naturelle et humaine le tesmoignent: et n'y a aucune ley contraire ny du Senate, ny de *Pompée*. Tel est le prosyllogisme de la proposition.

Or Clode est guetteur et espieur meschant:

Car il a espié *Milon*, esmeu d'vtilité, de haine, de mauuaises meurs, d'esperance d'impunité: Ce qui a esté entendue per ses parolles et fayts. Et qu'il ayt esté meschant, les faicts contre hommes et les dieus, le demonstrent. Tel est le prosyllogisme de l'assumption, dont est conclu,

Purtant Clode est iustement occis.

This is the briefe summe of all that long oration.

The 17. Chapter.

Of Methode.

THus much for a Syllogisme. Now followeth methode.

Methode is a disposition of diuers coherent ariomes, whereby the most generall is euer first placed: and of diuers syllogismes whereby the best and principall is first put downe, in such sort that thereby all of them may bee the more easily perceaued and better remembred. I call that the principall syllogisme which prooueth and concludeth the principall question; and that the principall question which was first propounded to bee concluded.

So then, as an ariome determineth truth and vntruth, and syllogisme consequence or inconsequence, in like maner is methode the onely iudge of order or confusion.

This methode is then obserued, when as that which is

best knowns, is placed in the first rome, and those which bée lesse knowne of themselues, do follow in order, as euery one is better knowne then an other.

Therefore this methode descendeth alwayes from the generall to the specials, euen to the most singular thing, which cannot bée diuided into any more parts.

The most generall definition is first to bée placed, and distribution next, which, if it bée manyfold; partition into the integrall parts must bée set downe first, and the generall proprieties of the thing so parted; then diuision of the specials must follow. And these partes and specials are in the same order to bée handled, as they were diuided.

If the discourse bée long, it must bée knit together, with transitions, telling briefly what is done, and what is to bée done, for confirmation of memory, and recreation of the reader.

This methode onely, and none other is to bée obserued, so often as wée teach any art or science, or take vpon vs to intreate perfectly of any generall matter.

Historiographers, Poets, Orators, and such other speakers or writers, are not bound so strictly to obserue the perfection of the first methode: but may, according to their matter, meaning, purpose, time, place, persons, wisely obserue the best for their intent, altering, hiding, adding, detracting, when and how they list. Poets séeke to please the multitude, a beast of many heades. Therefore Homer, maketh not an historicall narration of the Troian warre, from the beginning to the ending thereof, but so mingleth truth with tales, and tempereth them both with a probable shew, and delightsome continuation, that neyther the middle do séeme discrepant from the beginning, nor the ending from the middle.

And Virgil beginneth the Narration of Æneas his voiage from Sicile: making him declare the rest at supper in Carthage with Quéene Dido. Comicall poets also, albeit they very exactly diuide their Comedies into Acts and Scenes, yet for the pleasure of the people, bring in euery thing in such order, as though it were by chaunce, hap, or hazard, come so to passe.

Orators

Orators, as referring all to perswasion and victory, omit orderly distributions; obscure thinges purposely; amplifie; digresse; flatter; insinuate; alter; chaunge; and turne all vpside downe, placing the best arguments first and last: leauing the worst, in the middle of their spech altogether, the one to helpe the other; that with forcible thinges in the beginning, the auditors may bee wonne; and with as good in the ending, haue their minde and memory wholy occupyed.

This is called the concealed or hidden methode: the methode of wit and discretion, for that it is rather seene in the prouident conceipt of him that writeth or speaketh, then perceaued by any generall rule of art, or precept whatsoeuer. So it is a good policie, if thy cause bee honest and good, to vse such Exordiums and beginnings, as may make the matter best knowne and vnderstood plainly and simply: but, if not so good, as thou couldst wish, then to passe away slily with a smoothing insinuation.

In like manner, if thou bee to speake before thy enemies, and such as thou fearest, discretion must bee vsed, in putting this generall note which I haue now deliuered, in particular practise. Socrates in this sort cogged with the olde Græcian Sophisters, making them say and vnsay, and therefore say this, that hee was a wrangler, an inchaunter, a dissembler, a deceiuer. In one word, it is not amisse, to imitate the cunning Surgeon, who hideth his knife, because his patient should not be discouraged. So let vs in this poynt shew our selues skilfull in art, that wee may vse art, without any suspition of art.

Yet, notwithstanding all this licence vpon such necessary occasion, graunted to these people pleasing men, they must, asmuch as they may, follow and expresse generally, the methode which I first put downe: and that somuch the rather, because it is easie to bee practised in some part; and vnto reason most agreeable.

Annotations.

SOme thinke, the rule καθ' ὅλου πρῶτον, to belong to methode; but it is not so. For, axiomaticall iudgement considereth

the arioms alone, and seuerall by themselues; but Methode, the coherence of many distinct ariomes together. The rule καθ' ὅλου πρῶτον doth simply and onely shew, what ariome is generall, and to bee taught generally; what speciall, and specially to bee put downe, because such onely be recipzocall: but it telleth not which of these ariomes must in ozder haue first oz second place, which onely is Methodicall.

μεθοδος, of μετα which signifieth, with; and οδος, which is a way. Foz this is the right and compendious way, in wziting oz speaking to bee obserued. The wozd therefoze is metaphozically applied to any ozderly pzocéding.

Methode then, as wee take it heere, is an ozdering of dyuers ariomes already inuen ed: not a direction how to finde out ariomes. The inuenting of Artes came by obseruation of particulers; but the teaching and confozmation of them now inuented, beginneth at the vniuersall. Foz, it both geueth moze light then the speciall, and may be knowne without the speciall: but not the speciall without it: as a tree, in respect of a peare tree.

Of a little sparke commeth a great flame. Yet the sparke is not therefoze moze cleare then the flame: so although the knowledge of generals commeth by obseruation of particulers; yet these particulers giue not moze light then the generals.

Examples are allwayes lastly to bee put downe, foz that they are most speciall; and cannot bee diuided into any other specials: as beeing nothing els but the singuler obseruation of this and that pzoper and peculier thing.

Methode is like to Homers golden chayne, whereby thinges are sweetly vnited and knit so together, that if one Lynk fall of, the whole chayne is bzoken and dissolued. And Plato calleth it Vinculum artis &c.

As farre as man excelleth a bzute beast, by the iudgement syllogisticall; so farre doth one man surpasse an other by disposition methodicall. As then the pzactise is harde, the pzaise most excellent, so the Elench in Methode, causing obscuritie, and tautologie, is most foule and detestable.

Homer is noted foz his peruersion of Methode, insomuch that

that Tully writing to Atticus, where hée purposed to aunswere the last question first, said hée would talke of the last question first, ὕστερον πρῶτερον ἁμαρτίας.

As in the other parts of iudgement, so in this especially, vse, practise, and continuall exercise worketh all in all, hée that hath a generall sight in Logike, hath but the shadowe. Hé that is acquainted with the particuler practise, is the onely true and perfit logician.

I will neuer call him a Musitian that neuer sang: a Carpenter that neuer builded house: a Souldier that neuer fought, notwithstanding the generall speculation of the first in Musicke, of the second in building, of the third in fighting: no more will I thinke him worthie of the title & name of a Logician, that neuer put his generall contemplation of logicall precepts in particuler practise. For, as it is not enough to know what vertue is, vnlesse you liue vertuously, and expresse your learning by your liuing, so it is but a fruitlesse ostentation to bragge of a generall conceipt, without continuance in speciall and particuler exercise.

What precepts soeuer the common Rhetoricians put downe for ordering of Exordiums and framing and disposing of the whole course of their spéeche fitly and according to cause, auditors, time, place, and such like circumstances; all those I say, are altogether Logicall, not in any respect perteining to Rhetoricke, but as a Rhetor may bée directed by Logicall precepts of iudgement and disposition.

[Coherent axiomes:] For otherwise a man may say heere, as Horace did of a Poeme patched lyke a beggers cloake, wherein no one peece is like another.

Humano capiti ceruicem pictor equinam
Iungere si velit, & varias inducere plumas,
Vndiq; collatis membris, vt turpiter atrum
Desinat in piscem mulier formosa superne;
Spectatum admissi risum teneatis amici?
Credite, Pisones, isti tabulæ fore librum
Persimilem, cuius, velut ægri somnia, vanæ
Fingantur species, vt nec pes, nec caput vni
Reddatur formæ. And after,

Sed I

Sed non vt placidis coeant immitia, non vt
Serpentes auibus geminentur, tigribus agnæ.

[Most generall:] **Le chose generall serra touſiours miſe en demande ou pleynt deuant le chose ſpeciall, et l'entier deuant ſes partes, Come terre eſt genre a prée, paſture, bois, &c. et ſerra miſe in pleint ou demaunde deuant eux.**

Iſſint bois eſt vn genre de terre ou touts maners de arbres crescent, et pur ceo ſerra miſe en demaunde deuant alnetum & ſalicetum, **que ne ſont que eſpeces de bois.** Theloall. lib. 8. cap. 20. Fol. 129.

Notiora ſunt, ſaith *Waſſerleider*, non quæ facilius percipiuntur, ſed quæ percepta & intellecta plurimum notitiæ & cognitionis afferunt, vt vniuerſalia, quæ pluribus inſunt & conueniunt. Sic, obſcũriora, non quæ difficilius percipiuntur, ſed quæ percepta & intellecta ſingula parum lucis & ſcientiæ prębent, vt ſingularia, & ſpecialiſsima, quæ etiam ſenſibus percipiuntur. **Hærevpon is the diſtinction of** notiora naturæ, **and** notiora nobis. **But this is confuted of others.**

[Syllogiſmus:] Nam eſt quędam methodus in ſyllogiſmis. Methodus inueniendæ artis dicta eſt in genere & ſpecie. Hîc agitur de methodo diſponendi.

[Definition firſt:] **for it giueth light to all that foloweth.**

[Partition firſt:] **for it is made of cauſes, whereas diuiſion is of effects.**

[Tranſitions:] Tranſitio inter figuras Rhetoricas à *Cicerone* numeratur, cum ſit planè logica. Tranſitio reficit auditorem, certo ſingularum partiũ fine, non aliter quàm facientibus iter multùm detrahunt fatigationis notata inſcriptis lapidibus ſpatia: Nam & exhauſti laboris noſſe menſuram, voluptati eſt: & hortatio ad reliqua fortius exequenda, ſcire quantum ſuperſit: nihil enim longum videri neceſſe eſt, in quo, quid vltimum ſit, certum eſt. Tranſitio imperfecta eſt conuenientior, quando longa partis diſputatio non fuerit, vt memoriæ renouatione minimè ſit opus.

Crypſis methodi eſt in Elleipſi vel redundantia. Elleipſis eſt, non omnium amiſsio, ſed quarundam in methodo. Redundantia eſt Heterogenia vel Tautologia. In perfecta methodo docendus eſt auditor, in crypſei fallendus & mouendus. Sic

enim

enim mutato auditoris stomacho, salubria fiunt venenata, & contra.

As an Enthymeme is a defect of a ful syllogisme, so Elleipsis is in methode; as a prosyllogisme is superfluous there, so digressions héere: as the inuersion of the premisses is in the one, so the intangled circumduction is in the other. Wherof, besides Homers Iliades, and Virgils Æneis, the Ethiopicall history is a swéet example.

Argumentum semper disponitur, nunquam disponit: Methodus semper disponit, nunquã disponitur, vt summũ genus & infima species: sed enunciatũ & syllogismus sunt vt subalterna. Nam enunciatum disponit argumenta, disponitur in syllogismo, syllogismus disponit enũciata, disponitur à methodo.

Vbi materia nulla est, ibi forma nulla esse potest, vt si pars Rhetorices imperfecta in pronunciatione docenda sit, methodus perfecta non est desideranda.

Socrates compareth the oration which Lysias made of loue, to the foure verses which were written on Mydas tombe, wherein the matter did so wisely hang together, that the first might bée last, and last first without any daunger.

χαλκῆ παρθένος εἰμι &c.

Aenea virgo sum, Midæ sepulchro imponor,
Quamdiu & aqua fluet, & longæ arbores virescent,
Ipsius hîc manens lamentabili in tumulo,
Nuntio prętereuntibus, *Midas* quod hîc sepultus est.

And like to Lysias spéech, or Mydas epitaph, be all our balductum and vncoherent pamphlets, all our yeare-bookes and abridgements.

Imagine, sayth Ramus, that all definitions, diuisions, and rules of any art, as of Logike, were already inuented and allowed for true, and euery rule were written in a seuerall schole, euery schole béeing put into an earthen pitcher, as they vse in lottaries, and there shuffled together: what part of Logike now must order these confused rules and scattered scholes. Not Inuention, for they bée found out already: not ariomaticall Iudgement, for they bée iudged and allowed as true, euery Ariome seuerally: nor Syllogisticall; for nowe euery question is aunswered, all

controuersies concerning these rules, bée discussed: onely methode remaineth, by the direction wherof, I will séeke in this pot for the definition of Logike, and will set it in the first place: then for the diuision thereof into Inuention and Disposition, placing it in the second rome. This done, I will take the definition of Inuention and put it in the third degrée; and consequently the definition and diuision of arguments, vntill all the first part of Logike bée thus put downe, by defining, diuiding, exemplifyng, and binding together the seuerall tractates by conuenient transitions. Then will I in like manner procéede to Disposition.

Methode and order is the chiefest helpe of memory: therfore sith all methode is altogether Logicall: instructions for memory, if they belong to any art, must néedes bée Logicall. Therefore, Sit puer, sayth *Ramus*, qui querimoniam *Penelopes* apud *Ouidium* epistola prima de *Vlyssis* absentia post euersam *Troiam* memoriæ commendare velit.

Sed mihi quid prodest vestris disiecta lacertis
Ilios, & murus, quod fuit antè, solum,
Si maneo qualis *Troia* durante manebam,
Virq; mihi dempto fine carendus abest?
Diruta sunt alijs, vni mihi *Pergama* restant,
Incola captiuo quæ boue victor arat.
Iam seges est vbi *Troia* fuit, resecandaq; falce,
Luxuriat *Phrygio* sanguine pinguis humus.
Semisepulta virûm curuis feriuntur aratris
Ossa, ruinosas occulit herba domos.
Victor abes, nec scire mihi quæ causa morandi,
Aut in quo lateas ferreus orbe, licet.
Quisquis ad hęc vertit peregrinam littora puppim,
Ille mihi de te multa rogatus abit.
Quamq; tibi reddat, si te modò viderit vsquam,
Traditur huic digitis charta notata meis.
Nos *Pylon*, antiqui *Neleia Nestoris* arua
Misimus, incerta est fama remissa *Pylo*,
Misimus & *Sparten*, *Sparte* quoq; nescia veri,
Quas habitas terras, aut vbi lentus abes.
Vtilius starent etiam nunc mœnia *Phœbi*:

Iraſcor votis heu leuis ipſa meis.
Scirem vbi pugnares, & tantùm bella timerem:
Et mea cum multis iuncta querela foret.
Quid timeam, ignoro, timeo tamen omnia demens,
Et patet in curas area lata meas.
Quęcunque ęquor habet, quęcunque pericula tellus,
Tam longę cauſas ſuſpicor eſſe morę.

Hunc totum locum cum viderit puer primo connexo ſyllogiſmo comprehenſum, partes ſingulas notabit, earumq; prędipuas exornationes. Propoſitionem igitur aſpiciet initio in quatuor primis verſibus poſitam.

Sed mihi quid prodeſt veſtris diſiecta lacertis
Ilios, et, murus quod fuit ante, ſolum:
Si maneo qualis *Troia* durante manebam,
Virq; nuhi, dempto fine, carendus abeſt?

Deinde ſequitur aſſumptionis ſententia: At tu abes: & amplificatio ex adiunctis ruinis euerſę *Troiæ*: vbi ſex ſunt verſus.

Diruta ſunt alijs, vni mihi Pergama reſtant,
Incola captiuo quę boue victor arat.
Iam ſeges eſt vbi *Troia* fuit, reſecandaq; falce
Luxuriat *Phrygio* ſanguine pinguis humus.
Semiſepulta virûm curuis feriuntur aratris
Oſſa, ruinoſas occulit herba domos.

Dehinc repetitur aſſumptio, & augetur à maiori: non modò abes, ſed ita abes, vt ſcire nequeam vbi lateas. Quod exaggeratur factis *Penelopes*, interrogo, ſcribo, mitto in omnes orbis partes, nec quicquam de te audio. Decem ſunt hîc verſus.

Victor abes, nec ſcire mihi quę cauſa morandi,
Aut in quo lateas ferreus orbe, licet.
Quiſquis ad hęc vertit peregrinam littora puppim,
Ille mihi de te multa rogatus abit.
Quamq; tibi reddat, ſi te modò viderit vſquàm,
Traditur huic digitis charta notata meis.
Nos *Pylon*, antiqui *Neleia Neſtoris* arua
Miſimus, incerta eſt fama remiſſa *Pylo*.
Miſimus & *Sparten*, *Sparte* quoq; neſcia veri
Quas habitas terras, aut vbi lentus abes.

Conclusionis sententia tandem vicesimo primo secundoq; versibus per contrarium significatur.

Vtilius starent etiam nunc mœnia *Troiæ*,
Irascor votis heu leuis ipsa meis.

Sed & ipsi conclusioni amplificatio accedit ex adiunctis ; sex sunt versus :

Scirem vbi pugnares, & tantùm bella timerem,
Et mea cum multis iuncta querela foret.
Quid timeam ignoro, timeo tamen omnia demens,
Et patet in curas area lata meas.
Quęcunq; æquor habet, quæcunq; pericula tellus,
Tam longæ causas suspicor esse moræ.

Quamobrem cum hac interpretationis diligentia puer totam sententiam distinxerit, vel à diligenti pręceptore distinctam acceperit, & ex octo & viginti versibus, quatuor propositioni, sexdecim assumptioni, & octo conclusioni tribuerit, hac syllogismi descriptione non solùm partes, sed partium quoque sententiam sibi repræsentabit. Nam cum scierit hic primo loco propositionem, secundo assumptionem, tertio conclusionem esse, sciet itidem ex cognitis syllogismi legibus quæ vis cuiusque partis esse debeat : quinetiam hac ratione facilimè φάνταξ-σιας animo concipiet, per quas, imagines rerum absentium ita subijciet animo, vt cernere oculis ac presentes habere videatur. Vt in hoc exemplo concurrent antiquæ vrbis ruinæ, agricolæ, ossa, nautę, mulier sollicitè interrogans, tabellarij, bella, naufragia, cędes. In longioris autem orationis & disputationis ambitu, pręsertim si methodus seruata sit, memorię pręsidium pręcipuum erit. Exemplum nostra dialectica cõmodissimum erit, vt dialectica suijpsius inprimis memoriam confirmet, quę alijs opem confirmandę memorię pollicetur. Figuretur igitur hîc primis rerum notis, artis dialecticę summa & vniuersa partitio, quę quod dicimus, oculis etiam spectandum proponat.

A generall Table of the whole Booke.

- Logike: is in
  - Inuention of arguments, 1.
    - Inhærent
      - Original
        - agreeable
          - fully
            - 1. Cause
              - Efficient
                - of it ſelf, or accidẽtally.
                - alone, or with others.
                - procreant, or cõſeruant.
              - materiall.
              - formall.
              - finall.
            - 1. thing cauſed. or effect
            - 2. the whole and his parts.
            - 2. the generall and ſpecials.
          - in part
            - ſubiect.
            - adiunct.
        - disagreeable
          - diuers.
          - oppoſite
            - diſparates.
            - contraries
              - Relatiues.
              - Repugnants.
              - priuatiues.
      - Secondary
        - 1. Coniugates.
        - 1. Notation.
        - 2. diſtribution of
          - cauſe and effect.
          - ſubiect and adiunct.
        - 2. definition
          - perfit.
          - imperfit, deſcription.
    - Borowed, as teſtimonies
      - of God.
      - of Man.
  - Diſpoſition
    - axiomaticall where note
      - 1. the parts
        - the band.
        - things bound
          - the former part.
          - the later part.
      - 2. both
        - affections for it is
          - 1.
            - affirmatiue.
            - negatiue.
          - 2.
            - true
            - falſe
            - and theaſe
              - neceſſary: he of thoſe rules
                - of truth.
                - of iuſtice.
                - of diſcretion.
              - contingent.
        - and ſpecials
          - ſimple
            - generall.
            - ſpeciall
              - particuler.
              - proper.
          - compound
            - congregatiue
              - copulatiue.
              - contrariue.
            - ſegregatiue
              - diſiunctiue and diſtributiue.
              - diſcretiue, & præoccupatiue.
    - dianoeticall
      - Syllogiſticall
        - parts
          - antecedent
            - propoſition.
            - aſſumption.
          - conſequent, concluſion.
        - Specials
          - ſimple
            - affir:
              - gen:
              - ſpec:
              - pro:
            - neg:
              - gen:
              - ſpec:
              - pro:
            - contracted.
            - explicate
              - 1.
              - 2.
          - compound
            - connex:
              - 1.
              - 2.
            - diſiunct:
              - 1.
              - 2.
      - Methodicall from the generall to the ſpeciall
  - 2. all theſe beeeyther
    - ſimple
    - cõpared in
      - quality
        - lyke.
        - vnlyke.
      - quantity
        - æquall
        - vnæquall
          - more
          - leſſe.

Itaq; propositis hoc modo distributisq, rebus, vt verborum quoq; contextus facilius ediscatur (qui ab arte auxilij nihil admodum capit, nisi forte quod res ordine distributæ sua vocabula secum rapient,

Verbaq; prouisam rem non inuita sequentur) accedat, si placet, meditatio, vt per partes paulatim memoria ducatur: quthetiam modica voce in meditando animus excitetur, vt duplici motu dicendi & audiendi memoria iuuetur: tum siqua ratio memoriam possit adiuuare, illa dispositionis admonitio iuuabit: licebitq; philosophis & oratoribus, qui locis & imaginibus artem quandam memorię confinxerunt, per nos quidem valere: nihil enim pollicentur, quod non vberius multò faciliusq; teneamus. Aiunt enim ordinem prodesse memorię, sed externis & commentitijs eam signis & simulachris instruunt, nos ordinis rebus insiti doctrinam certissimam & veros locos pro rerum gradibus & generibus distinctos, rerumq; verissimas imagines adhibemus: illi verborũ memoriam infinitate formarum conturbant, dum propter singula verba ad singulas species est respiciendũ: Nos hanc partem rerum compositione & collocatione, quantum natura fert, adiuuamus. Quapropter quicquid est, quod ad confirmandam memoriam doctrina possit efficere, id totum dialecticę dispositionis doctrina prestabit.

Hitherto Ramus concerning the helpe of memory by Logicall disposition: to the which counsayle of him, if we adde some comfortable simples, & haue a careful hed ỳ we distemper not our selues either with vnorderly dyet, or vnhoneſt exercise, I am perswaded it will be more auaileable, then all the volumes of the art of memory.

Examples of the perfect methode appeare in the artificial putting downe of Arts (as in this type of Ramus his Logike already drawn) & also in some other philosophicall discourses.

For our Kalender, although shepheardes bee not woont to binde themselues to any ouerstrict methode in speaking, yet that song of Colyn Clowt rehearsed by Hobbynoll in May, may make vs beleeue, that euen shepheardes, by the light of nature, did, asmuch as in them lay, expresse this methode in their speeches. For there be, after a poetical in-

uocation, and generall proposition of that which he hath in hand, I meane the prayses of Elysa, commeth nearer ỳ matter, and first putteth downe the causes, then adiunctes, and other arguments, incident to Elysa.

Instead af a definition we may vse this generall propounding of the matter: then deuide it into some fewe heades: and orderly discourse of euery head, vsing the places of inuention, the helpe of iudgement &c.

Sir William Stamford in his crowne plees doth first define and propound, thus:

Plées del corone sont les ples queux conteignõt l'offences faits encounter la corone et dignitie le roy, perque pur le mieulx entendement de eux, est requisite a veier queux sont les dits offences: et puis de la maniere coment ils serront pledus, et darreinement de la manier coment ils serront tries et iuges. And so goeth on forward, defining, diuiding, and making playne by examples all the speciall sortes of offences against the crowne.

Bracton followeth the order of the ciuill law altogether, insomuch that he that hath seene the one, may easily iudge of the other.

Perkins in euery of his seuerall tractates doth, as Stamford, propounde, diuide, and adde examples.

Lyttleton in like maner, by definitions, diuisions, and induction of speciall cases insteede of so many examples, made vp his booke.

Maister Theloall tooke occasion (as in his preface to the Lord Chancellor he confesseth) by Stamfords good motion, to make a more methodicall discourse of writtes, then was extant heeretofore. I will vse his owne wordes to shew hys owne order.

Pour ceo que mon entent est de entraiter de briefe, et des choses concernantes briefe, il moy semble conuenyent de commencer per la definition de briefe, et de monster quelle chose il est.

And afterwards, I'ay enterprinse de framer vn definition, ou plustost discription de briefe solonq; le forme et doctrine d'eux, que le art de ceo professont, per les genres, differences,

pro-

proprieties, en tiel manner, &c. The definition I haue put downe in the first booke.

Then hauing defined it, he saith, me voyes a diuider mon brefe.

After the diuision hée vseth a transition, wherin he briefly telleth, what hée hath done, and orderly declareth what remayneth to bée done moreouer.

Which kinde of Transitions, wanting in Lyttleton, make the coherence of his discourses somewhat obscure, as in that tractate of estates sur condition, where hée first diuideth conditionall estates, thus:

Estates que homes ont en terres ou tenements sur condition sont de deux maners, s. ou ils ont estate sur condition en fait, ou sur condition en ley. And after the laying downe of so many seuerall cases of the first part, as could be conteyned within the compasse of sirteene leaues: hée immediatly, if not abruptly, proceedeth to the explication of the second, without any transition at all: Neither telling what was done, nor what was to be done. So also in the discourse of releases, he first deuideth releases thus. Releases sont in diuers maners, s. releases de tout le droyt que home ad en terres ou tenements; et releases d'actions personels et reals et auters choses. And then hauing bestowed ten leaues wholly vpon the first member of his distribution, hée sets vpon ỳ second part sodenly without any warning giuen at all.

Digressions bé sometimes tolerable vpon necessary occasion: but impertinent, or rather repugnant imaginations continually cast in, marre all. A man taketh vppon him to reade vpon the statute of fines, and hée thrummeth in 50. scattered & vndigested cases of estate tayle in possessiõ, and as many of the same in reuersion, with a clutter of other sophisticall and vncoherent poynts, much like a foolish paynter, who because he had some litle skill in paynting a peare tree, but no cunning at all in expressing anything els; would be sure to make a peare tree grow on euery mans wal. So this fellow hauing met with some odde learnings of estate tayle, will needes haue vtterance for it. An other maketh euery case haue one idle poynt of a fine, for fashion sake, whereas

hée

hée foysteth in 6. 8. 10. 12. or more extrauagant conceipts, as well agréeing with the nature of a fine, as a Harpe doth with a Harrow; yet, who but hée? Non equidem inuideo: miror magis, at the frenzie of the reader, and folly of the hearer. For if the readers intent be to explayne the statute, then quorsum hæc tam putida tendunt? but if hée meane to make ostentation of all his imaginations, me thinks he should not make a well meaning statute the cloake of two hundred ambiguities. I graunt the matter may bée well worth the hearing, but Nunc non erat his locus: Therefore as Horace sayth.

Amphora cæpit,
Institui, currente rota, cur vrceus exit?

To conclude I could heartily wish the whole body of our law to be rather logically ordered, then by Alphabeticall breuiaries torne and dismembred. If any man say, it cannot be, he should adde, by himself: if hée thinke it should not bée, then I doe not somuch enuy his great wisedome, as pitie his rusticall education, who had rather eate Acornes with hogs, then bread with men; and preferreth the loathsome tossing of an A. B. C. abridgement, before the lightsome perusing of a Methodicall coherence of the whole common law.

Yet I am not hée, that will once open my mouth, generally to condemne the contracting and abridging of dispersed & tedious cases: But as, Lyttleton, Parkins, Stamford, Theloall, Bracton and Britton haue excelled the abridgers in light and order, so the paynefull abridgements of Statham and those reuerend Iudges Fitzherbert, and Brooke, are more conuenient for many purposes, then those vast heapes of scattered discourses, throwne into euery corner of our yeare bookes: Which, notwithstanding, are diligently to be reteyned: but the matter may bée, for the benefite of students, more orderly contriued.

It is not my purpose, at this time to dispute, whether the law of England, being one onely proper, and singuler law, appropriate to our nation, consisting of so many particularities, being subiect to such continuall change and alteration, can bée made an art: But that the confusion of writers may bée removed, the maner reformed, the matter better ordered,

I dw surely beléeue, because I know assuredly.

Thus haue I at last, made an end of a confused meditatiō, patched vp, I feare mée, rather in great hast, then with good spéed. Wherein I thinke the art of Logike to bée as I haue put downe: but the precepts of the same must bée continually practised, as I haue elsewhere sayde, or els the generall contemplation thereof will proue a fruitles conceipt & naked speculation. Let vs folow therefore the counsell of Apelles; Nulla dies sine linea. Let no day passe without some practise, either in making, framing, and inuenting of our selues, or in resoluing & dissoluing of things donne by others, for the triall of their skil, and confirmation of our owne. Neither would I haue this practise continued onely in reading or writing, but in euery ciuill assembly or méeting: wherein yet I will not bée so seuere a censor, as to exact euery spéech to the formall rules of ariomes, syllogismes, &c. It shall bée sufficient for vs to folow a more easie and elegant kinde of disputation, ioyning Rhetorike with Logike, and referring that precise straitnesse vnto Philosophicall exercises. practise.

Neyther let any man thinke, that because in common méetings and assemblies the wordes and tearmes of Logike bée not named, therefore the force and operation of Logike is not there vsed and apparant. For, as in Grammer wée name neyther Noune, Pronoune, Uerbe, nor any other parte of spéech: and as in Rhetorike, wée make mention neyther of Metonymia, Synecdoche, Exclamatio, nor any other Rhetoricall figure or trope: yet vse in our spéech the helpe of the one in speaking grammatically, and the direction of the other in talking eloquently: so, although in common conference wée neuer name syllogismes, ariomes, propositions, assumptions & other wordes of art, yet dw wée secretly practise them in our disputations, the vertue whereof is, to make our discourses séeme true to the simple, and probable to the wise.

I haue, for examples sake, put downe a Logicall Analysis of the second Aegloge in Virgill, of the Earle of

Northumberlands case in Maister Plowdens reportes, and of sir William Stamfords crowne plées. For the Aeglogue although the verses of Virgill be better knowne in Latine, then I can make them vnderstode in English, (especially obseruing the same order of verse) yet I haue attempted the interpreting of the same by a poeticall Paraphrasis, for the contentation of such as vnderstand no Latine: & withall inserted the Latyne verses, for their pleasure, that disdayne the English..

Alexis 2. Aegloga Virgilij.

FOrmosum pastor *Corydon* ardebat *Alexin*
Delitias domini, nec quid speraret, habebat.
Tantùm inter densas, vmbrosa cacumina, fagos
Assiduè veniebat. Ibi hæc incondita solus
Montibus, & syluis studio iactabat inani.
O crudelis *Alexi*, nihil mea carmina curas;
Nil nostri miserere; mori me deniq, coges.
Nunc etiam pecudes vmbras & frigora captant:
Nunc virides etiam occultant spineta lacertas:
Thestylis & rapido fessis messoribus æstu
Allia, serpyllumq; herbas contundit olentes.
At mecum raucis, tua dum vestigia lustro,
Sole sub ardenti resonant arbusta cicadis.
Nonne fuit satius tristes *Amaryllidis* iras,
Atq; superba pati fastidia, nonne *Menalcam*,
Quamuis ille niger, quamuis tu candidus esses?
O formose puer, nimium ne crede colori:
Alba ligustra cadunt, vaccinia nigra leguntur.
Despectus tibi sum, nec quis sim, quæris *Alexi*,
Quàm diues pecoris niuei, quàm lactis abundans.
Mille meæ Siculis errant in montibus agnæ.
Lac mihi non æstate nouum, non frigore defit.
Canto, quę solitus, si quando armenta vocabat,
Amphion Dircæus in *Actæo Aracyntho*.
Nec sum adeò informis, nuper me in littore vidi,

Cum

Cum placidum ventis ſtaret mare, non ego *Daphnim*
Iudice te metuam, ſi nunquam fallit imago.
O tantùm libeat mecum tibi ſordida rura,
Atq; humiles habitare caſas, & figere ceruos,
Hædorumq; gregem viridi compellere hibyſco.
Mecum vnà in ſyluis imitabere *Pana* canendo.
Pan primus calamos cera coniungere plures
Inſtituit: *Pan* curat oues, ouiumq; magiſtros.
Nec te pæniteat calamo triuiſſe labellum,
Hæc eadem vt ſciret, quid non faciebat *Amyntas*?
Eſt mihi diſparibus ſeptem compacta cicutis
Fiſtula, *Damætas* dono mihi quam dedit olim,
Et dixit moriens, te nunc habet iſta ſecundum:
Dixit *Damætas*, inuidit ſtultus *Amyntas*.
Prętereà duo, nec tuta mihi valle reperti
Capreoli, ſparſis etiam nunc pellibus albo,
Bina die ſiccant ouis vbera, quos tibi ſeruo.
Iampridem à me illos abducere *Theſtylis* orat:
Et faciet, quoniam ſordent tibi munera noſtra.
Huc ades, ô formoſe puer, tibi lilia plenis
Ecce ferunt nymphæ calathis: tibi candida *Nais*
Pallentes violas, & ſumma papauera carpens,
Narciſſum, & florem iungit benè olentis *Anethi*.
Tum *Caſia*, atq; alijs intexens ſuauibus herbis,
Mollia luteola pingit vaccinia caltha.
Ipſe ego cana legam tenera lanugine mala,
Caſtaneaſq; nuces, mea quas *Amaryllis* amabat:
Addam cerea pruna; & honos erit huic quoq; pomo:
Et vos, ô Lauri, carpam, & te, proxima myrte:
Sic poſitæ quoniam ſuaues miſcetis odores.
Ruſticus es, *Corydon*, nec munera curat *Alexis*:
Nec ſi muneribus certes, concedat *Iolas*.
Eheu quid volui miſero mihi? Floribus auſtrum
Perditus & liquidis immiſi fontibus apros.
Quem fugis ah demens? habitarunt dij quoq; ſiluas,
Dardaniuſq; Paris. *Pallas* quas condidit arces,
Ipſa colat: nobis placeant ante omnia ſiluæ.

Torua leæna lupum sequitur; lupus ipse capellam;
Florentem Cithysum sequitur lasciua capella,
Te *Corydon*, ô *Alexi*: Trahit sua quemq; voluptas.
Aspice, aratra iugo referunt suspensa iuuenci,
Et sol crescentes decedens duplicat vmbras:
Me tamen vrit amor, quis enim modus adsit amori?
Ah *Corydon*, *Corydon*, quæ te dementia cepit?
Semiputata tibi frondosa vitis in vlmo est.
Quin tu aliquid saltem potius, quorum indiget vsus,
Viminibus, molliq; paras detexere iunco?
Inuenies alium, si te hic fastidit *Alexis*.

The same in English Hexameters, *verse for verse.*

SEelly shepheard *Corydon* lou'd hartily faire lad *Alexis*,
His maisters dearling, but saw no matter of hoping.
Only amid the forest thick set with broad-shadoe beachtrees
daily resort did he make: thus alone to the woods, to the moũtains,
With broken speeches, fond thoughts most vainly reuealing.
O hardharted *Alexis*: I see my verse to be scorned,
My selfe not pitied, my death by thee lastly procured.
Now do the beasts eũn seeke for cooling shade to refresh thẽ,
Grene lyzards now too in bushes thorny be lurking,
And for faint reapers by the suns rage, *Thestylis* hastning,
Strong-smelling wilde thime, and garlyke beates in a mortar,
But whilst I trace thee, with sun beames all to bescorched,
Groues by the hoarschirping grashoppers yeeld a resoũding.
Wast not far better t'haue borne with surly *Menalcas*,
And sore displeased, disdainfull, prowd *Amaryllis*,
Although thou white were, although but swarty *Menalcas*?
O thou faire white boy, trust not too much to thy whitnes:
Faire white flowers fall downe, black fruits are only reserued.
Thou cârst not for mee, my state thou knowst not, *Alexis*:
What flocks of white sheepe I do keepe, of milke what abũdance,
On *Sicil* high mountains my lambs feed more then a thousãd:
New mylke in summer, new mylke in winter I want not,

My

My ſong's like *Thebane Amphions* ſong, when he called
His wandring bullocks, on Greekiſh mount *Aracynthus*.
Neyther am I ſo fowle: I ſaw my ſelfe by the ſeaſhore,
When ſeas al calme were: I doubt not, but by thy cenſure,
Daphnis I ſhall ſurpaſſe, vnles my face do deceaue mee.
O, let this be thy will, to frequent my ruſtical harbors,
And ſimple cotages, and ſticke in forkes to vphold them,
And driue on forward our flocke of kids to the mallowes:
Wee wil amid the foreſt contend *Pans* ſong to reſemble:
Pan was firſt that quils with waxe ty'de ioyntly together.
Pan is good to the ſheepe, and *Pan* is good to the ſheepſman.
Neither think it a ſhame to thy ſelf t'haue plaid on a cornpipe:
For, that he might do the ſame with skil, what did not *Amyntas*?
Damætas long ſince did giue me a pipe for a token,
Compact of ſeûn reedes, all placed in order, vnæquall:
And thus ſayd, when he dy'de: One vſed it onely beefore thee.
Thus ſayd *Damætas*, this greeued fooliſh *Amyntas*.
Alſo two prety kids doe I keepe, late found in a valley
Dangerus: & their skins with mylke white ſpots be bedecked,
Of dams milke not a drop they leaue; & for thee I keepe them.
Theſtylis of long time hath theſe kids of me deſired;
And they ſhalbe her own, for that thou skornſt what I giue thee.
Come neare, ô faire boy, ſee the nymphs bring here to the lillies
With full ſtuft baskets: faire *Nais* now to thy comfort
White violets gathering, and poppies daintily topping, (Dill.
Daffadil ads to the ſame, & leaues late pluckt fro the ſweete
Then mingling Caſia with diuers ſauory ſweet flowrs,
With yelowiſh Marygold, ſhe the tender Crowtoe bedecketh.
Ile plucke hoare quinces, with ſoft downe all to beſmeared,
And Cheſſnuts which were loûd of my ſweet *Amaryllis*.
Add wil I wheateplumbs too: for this fruit will be regarded,
And you laurell leaues wil I plucke, and thee, prety myrtle
Next to the laurell leaues: for ſo plâſt yeeld ye the ſweet ſent.
Th'art but a foole *Corydon*, for firſt gifts mooue not *Alexis*,
Then, though thou giue much, yet much more giue wil *Iolas*.
But what alas did I mean, poore foole? I do let go the ſouthwind
Into the flowrs, & boares ſend forward into the cleare ſprings.

Whom flyâst thou mad man? Many gods haue alſo reſorted,
And *Paris* of olde *Troy*, to the woods. Let towers by *Minerua*
Buil't, by *Minerua* be kept; and woods of vs onely regarded.
Grim Lioneſſe runneth to the wolfe, & wolfe to the yong gote,
And wanton yong gote to the flowring tetrifol haſtneth,
And *Corydon* to *Alexis*: a ſelfe ioy draweth on each man.
But ſee the plow coms home hangd faſt by the yoke, to the bul-
And ſhadoe by *Phœbus* declining double appeareth: (locks,
Yet do I burne with loue: for what meane can be to louing?
Ah *Corydon*, *Corydon*, what mad rage hath thee bewitched?
Thy vin's ſcarſe halfe cut, peſtred with leaues of her elme tree:
Leaue this churliſh boy, and bend thy ſelfe to thy buſnes,
With twigs and bulruſh ſome needefull thing be a making:
Thou ſhalt find others though th'art diſdaind of *Alexis*.

There bee, saith Freigius 2. partes of the Aeglogue.

First the propounding of the argument, which is of the incontinency of a louer lamenting his loue in solitary places,

Secondly the complaint and lamentation of Corydon the louer, speaking

First to his loue, and that by

Accusing his crueltie, which is argued

First by comparison of the vnlikes, the proposition consisteth of three vnlikes, the beastes, Lyzardes, and reapers seeke shade: the reddition is, but yet I burne with loue.

2. By the lesse Amaryllis and Menalcas are too cruell, but thou more cruel then they.

3. By the cause of his pride, whiche was his beautie, and it is extenuated by a simily. As white primprint sales, but blacke Violets bee gathered, so beautie decayes, and blacknes remaines.

Enticing him to come to his house to sing, to driue the Kids to the Mallowes, &c. and that by praysing of himselfe by his adiunctes.

AAA Corydons adiuncts be these: he is

- Rich, and his riches be proued by specials
  - his lambs
  - his mylke.
- Skilfull in singing, and that is proued.
  - By a comparison of the equall, in that hee is equall to Amphion: and heere an obiection is preuented by a comparison also of the equall: neither thinke it a shame to play on a pype, for Amyntas thought well of it. Then the praise of his singing is continued by his pype, and his pype by the autor that gaue it, which was Damætas, and another that enuyed it, to wit Amyntas.
- Faire & comly: it is proued by
  - The adiunct of his image in the water
  - Comparison of the equall, as was Daphnis.
- Franke and free, which is proued by his sundry giftes.
  - 1. His kydds, commended by their adiunctes, in that they were white spotted, well sucking, and desired of Thestylis.
  - 2. His basket of sweete flowers gathered by the Nymphes, they be hearbs and also flowers, as,
    - Lillyes.
    - Violets.
    - Poppy.
    - Dylle.
    - Daffadil.
    - Casia.
    - Marigold
    - Crowtoe.
  - 3. His diuerse kindes of
    - Fruits as
      - Quinces.
      - Chesnuts.
      - wheatplums.
    - Boughs as bee
      - The Lawrell.
      - The Myrtle.

DDD Secondly to himselfe, by resisting himselfe, as it were, and here is conteyned both a

doble correction or calling backe of himselfe.

the first is both of the

adiunct, pride, and contempt of hys gifts and here is

First a double exclamation: and here

in the first hee noteth Alexis his pride by two similies, ỹ south winde, and the boare.

in ỹ secõd he entreateth againe, by the equall, as Paris, and ỹ gods &c.

Moze, oz greater, foz Iolas gaue moz large ly then hee.

Secondly a permission by the vnlike. Let Pallace keep her Pallaces, and wee the woodes which is our delight. The reddition is made playne by comparison of lykes: where also the generall is concluded by the specialles in a Clymax of thzee degrees, Grimme Lyonesse to the Wolfe &c.

the second is of the adiunctes both of

The tyme, where there is a Periphzasis of night, and an argument of the diuers, albeit the heate of the sunne is mitigated by the comming of the night, yet I burne still with loue: the reason followeth of the adiunct of loue: foz loue hath no meane.

Remedy of loue by cõtraries which be:

busnesse in making some needefull thinge of twigs and bul rush.

his busnesse neglected, where is a double negligence: of

his vine halfe cut

his elme full of boughes

foz both be naught.

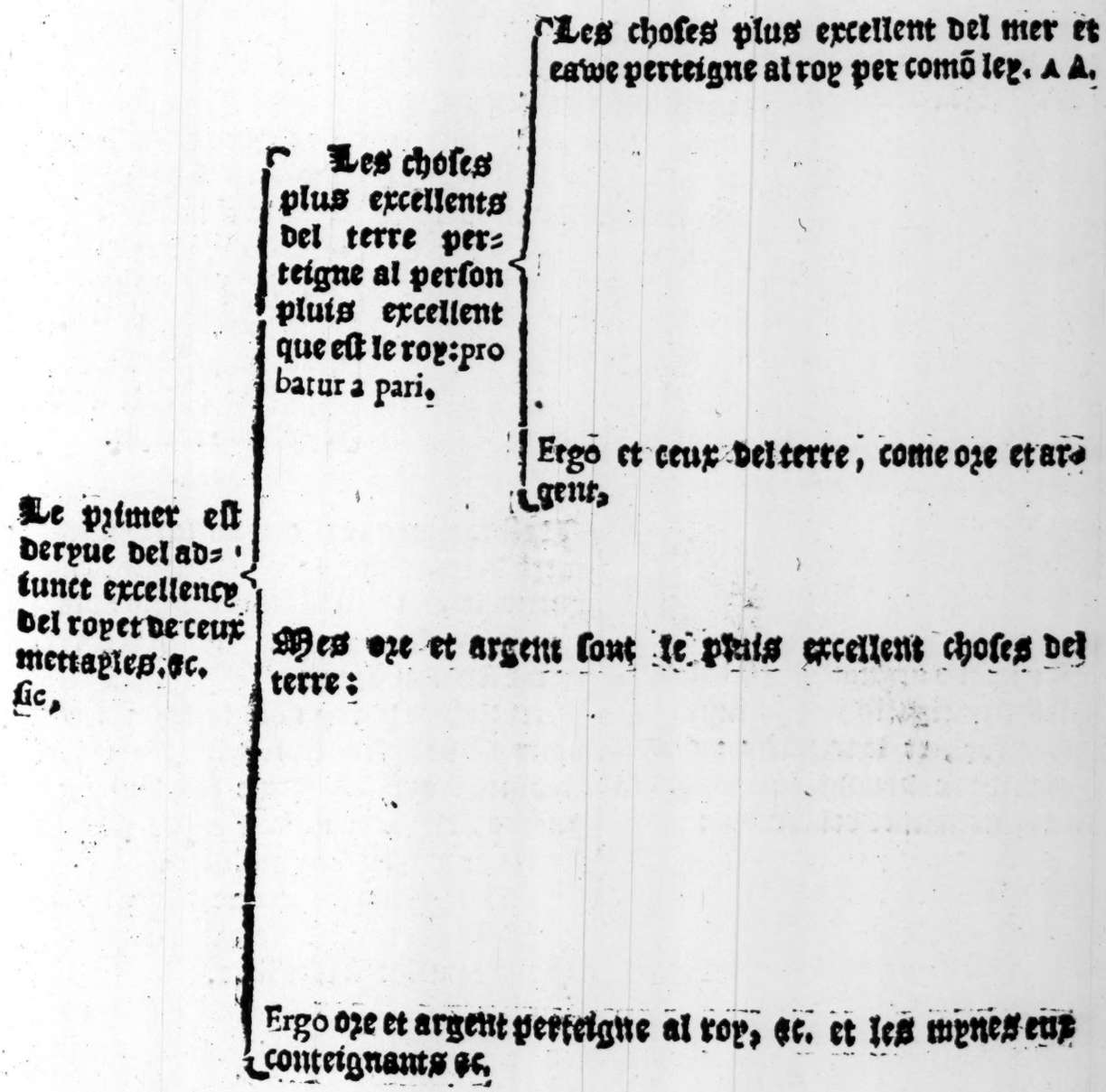
and hope of some other louer, if Alexis should disdaine him.

For the Earle of Northumberlands case, I haue rather shewed what is done by maister Plowden, then what might haue bëne done by a better Logician. Le matter fuit argue en Leschecquer M.9.& 10. Elis. denãt touts les Justices d'angleterre et Barons deschecquer, per Onslow Sollicitor, Gerard Atturney, Wray & Barrham seriants le roigne, del part le roigne: et per Shirborne et Bell. apprẽtices et Meade seriants del part le Coũte. Le case fuit tiel; l'attorney le roigne informe le court, que ou le roigne doyt auer touts mynes de ore et d'auter mettail conteignant ore per prerogatiue, el 10 Martij. An.8.regni sui esteant seisie en son demesne, come de fee en droit la corone, del waste dit Newland, in com. Northumberland, en queux certene veynes de quyure sont, conteignants ore; assigne T. & D, de sower &c. queux sowont 600000 poys &c. et le Counte eux disturbe: le Counte, protest: que le roigne ne doit auer per prerogatiue &c. pro ple dit, que quant al 500000 parcel del 600000, le terre in que &c. fuit done al counte per patent le roy et roigne P.& M. dat. a Richmond, le 15 del August 4. & 5. An. reg. &c. ex gratia speciali, certa scientia, & mero motu suis &c. et que il disturbe &c. et auerra, que cest veyne fuit ouert primes puis le dit 15 iour del August. an.4.& 5.reg.&c. s.1. April. an.7. Elis. et trauerse le seisine le roigne le dit 15. iour del March. Et pur les auter 100000, residue del 600000, il plede patent le dit roigne del honor del Cokermouth, oue wrecks, mines, &c et que le myne in que &c. fuit ouert iour del date del patent et deuant &c. issint il disturbe prout bien a luy list. sur que l'atturney le royne, demurre en ley. Les points sont generall, ou speciall. les general points sont deux: le primer, si touts mynes d'ore et argent in terres del subiects, oue poyar de sower le terre et asporter le ore &c. apperteigne al roy per prerogatiue, car nest in le treatise de prærogatiua regis, et le sower tutch le franchtenement et l'inheritance d'auter. Le second, si mynes de Copper conteignant ore ou argent, perteigne al roy vt supra. Le proper et speciall point que immediatement concerne le case del Counte, est, si les mynes de quyure cõteignãt ore ou argent, perteigne al roy per prerogatiue, Vtrum le graunt P.& M. del terre en le primer case, et de touts et singuler mynes en l'auter case per patent de gratia &c. fait les mynes de passer del eux al dit Counte, on nemy.

Or doncques primerment est a dire de les arguments de les dits

dits seriants et apprentices, puis de le iudgment et opinion des Justices.

Les arguments del primer point, pur le roigne, sont in confirmando, ou confutando: les confirmant arguments sont inherent ou borowed, come testimonies et autorities: les inherents sont quater, et Onslow fait troys de eux, et Gerard le quart.



A A.

Cest premier part del enthymeme est confirme per nouel sylogysme, contegnant vn argument del special, illum constituto.

Le comen ley appropre al roy sturgions et baleynes que sont deins le mere en engleterre: s. les vraches del mere: et ceo est prouue per deux testimonyes.

Mes del choses de la mer, les pisches, et de pisches, les sturgions et baleines sont plus excellentes.

Ergo le comen ley appropre al roy les choses plus excellentes de la mere et eaw.

Le primer est de treatise de prærogatiua regis, cap. 11. (que n'est nouel ley, mes declaratiõ del comon ley) s. Rex habebit balenas & sturgiones captos in mari, vel alibi intra regnum.

Le second est del Britton que escry lõg temps deuant le treatise de prærogatiua regis et il monstre en son chapter de trouours que le roy auera les pisches per prerogatiue per le comen ley en son temps.

Le second argument est del causes principalls et coadiuuants: s. le roy, et le treasure: queux ambideux deuont concurrer al mayntenaunce del realme:

Il est reason que il que ad le regiment et tutel del people come principall cause, queux il ne peult defender sans adiuant et instrumentall causes, aueroit ces aydes et causes adiuuants.

Mes Poffice le roy que le ley a luy appoint est de defender ses subiectes: et le treasure, que est terme les senows del guerre, est le adiuuant cause pour defender eux vers tout hostilitie.

Ergo il est conuenient que le roy aueroyt le treasure et mynes de oze et argent, en queux consist cest treasure.

Le

A que il apperteigne de metter certeine print et price sur le oze et argent issint que il poet estre disperse enter les subiects, per entercourse de merchandise, bender achater &c. A cestui il apperteigne dauer l'oze et argent.

Mes ces choses tant solement apperteignont al roy mesme, et a nul auter. Car il fuit graund treason per le comen ley deuant l'estatute de Anno. 25. E. 3 ca 2. come il apiert per 23 E. 3. lib. ass. ou feme fuist arse pur fauxer ou counterfeister money

Ergo al roy apperteigne les mynes et owres del oze et argent.

Le tierce conteigne vn final cause et vse del money que est, d'estre coigne, print, et value. Car donques solement il est currant pur le cõmoditie del subiects en lour mutual commercion ou traffique

Ceo que ouste le conueniency et bone proportion del members del bien publique en feasant le subiect et seruant greinder que le roy et gouernor doyt estre remoue hors del bien publique, come chose pernicieux et causant rebellion, contempt, et honor en le subiect, mes deposition, peril, et danger en le roy.

Mes le graunting del mynes de oze et argent al subiects fait &c.

Gerard fait le quart argument, conteignãt les pernicieux effects del cest donation de oze et argent al subiects.

Ergo ceo dott estre remoue hors del bien publique.

Ceo que est vse de temps del vn roy puys auter, oue l'assent del iudges et auters sages del ley, et dont les charters et recoyds sont enrolles en leschequer, come choses de effect, et come foundations al accoumpts, ne poet estre dit toycious. Car ley n'est seye si non per vsage, et vsage proue que il est ley.

Oyr est adire del testimonies queux sont de deux genres: les primers sont matters de recoyd, et charters le roy: les auters sont escripts, dicts, et edicts del certeine homes: primermẽt pur les primers, mittomus cest foundement deriue del effects et vses et customes del predecessoys, et certeine adiuncts incidents a les dits choses.

Mes que mynes de oyr et argent, en auters soyles sont al roygne per prerogatiue, est consonant al vse &c. Vide, A A A.

Ergo il n'est toycious.

A A A.

Le minoy est confirme per diuers precedentes, et matters de recoyd hoys de lesch equer q; est le court del reuenues le roy en tẽps de diuers royes: les recoyds sont

primerment recitees et cõt en troys maners,

- Ascuns sont charters fait de graunt de mynes de oyr et argent en auter soyle: Vide, O O.
- Ascuns prouont accoumpts de reuenue del tyel mynes en auter soyle, d'estre rendue al roy. R R.
- Ascuns prouont que le roy ad impled pernours del profite des owzes &c. in terre de auters. N N N.

Puys, lour auctoyritie est confirme. B B.

O O. Les

1 En temps le roy. E. 3. 32. Anno.

2. Fuit charter le roy: R. 2. 8. en le explication du quel, est conteigne cest syll:

Si le owze de oze et argent est al roy, le ley done a luy meanes de vener a ceo, que est per fower.

Mes le owze de oze et argent est al roy.

OO.

Les recozds del 1. genre sont huyt:

Ergo le ley done a luy meanes de vener a ceo, que est per fower.

3. Per le roy: H. 4. 2.
4. Per le roy. H. 6. 5.
5. Per le roy. H. 6. 11.
6. Per le roy. E. 4. 15.
7. Per le roy. E. 4. 18.
8. Per le roy. H. 7. 1.

L'un accoumpt fuit fait et rendue en l'eschecquer sur le lease del mynes de oze et argent et quiure fait per le roy Ed. le tierce a Iohan Balauncer, et VValter Goldbeater: per quel apiert que le roy fuit respondu del 20. markes pur le primer an, et tyens pur le second an, par ceo que les lessees mozeront, et le roy auoyt graunte les mynes as auters.

RR.

Ceus de second especes sont deux:

Lauter accoumpt fuit fait per Henry euesque de VVinchester Cardinal d'engleterre, vn del executozs Iohn Duke de Bedford, fermour de les mynes de oze et argent en les counties de Deuon. et Cozn. de le 15. part del pure argent reserue sur le graunte, s. de le 15. iour de December an: 22. H. 6. iesques al 16. iour de August an. 23. mesme le roy: et sur ceo accoumpt il rende trent size lyuers pois de pure argent, et deux ounces surdant de mesme le 15. part.

NN. Mest forsques, vn example de pernours del owze, impledees per le roy. 36. H. 6. s. ceo de Roger Chambernoume, que pur son discharge fuit chase de suer al roy pur pardon, sachant per son counsel, que il ne puyst defender le matter per le comen ley.

BB. Lauto-

BB Lautozitie del recozds auandits est confirme en deux maners s. per vn generall axiome, que est tiel, les Recozdes de chescune court sont le pluis effectuall pzoufes del ley en choses treates en ceo court: et ceo que est vse en vn court, est ley en touts courtes, et per tout le realme: sic hic, nul pzoofe del reuenue le roy est pluis fozt que les recozds del court en que le reuenue est rend s. Leschequer. le axiome auandit est pzoue per le particuler enumeration de les special matters subiects del courts le roy, Car

Quant al matters del cozone, s. en appeales de felony, et endytements de murder et treason, et tyels semblables, si question surde, quel est ley en tyels choses et quel non, les Recozds del bank le roy, sont le pluis effectuall pzoofe de ceo: et ceo que est vse la doit estre pzise come pzoofe del ley per tout le realme. Car ceo court treate de tiels choses et a iurisdiction de eux, et les recozds la, sont testmoignes del ley en ceux points.

Et les Recozds et pzecedentes del comen banke, in le pzopertie de biens ou chatels reals ou personals, ou dzoits ou tytles en terres et tenements.

Ergo eodem modo les Recozds del eschequer, pur choses concernants le reuenue le roye, et que apperteignont al roye et que pozt ou attreit reuenue al roy. et ceo est confirme per le recitall del special cases dont iugement fuit done accozdant al Recozdes del exchequer. M. M.

MM. Les

Primerment le case de Littleton cap. socag. que action de accoumpt ne gist vers executors pur ascun, si non pur le roy tantsolement, est proue per le Records del eschequer, lou accoumpts pur duities le roy sont discusse & responde, et que accoumpera, et que nemy.

2. In le case vouche per Littleton cap. de grand seriantie, hors del. 11. H 4. Cockein chiefe baron demaund des iustices del comen bank, si vn tient del roy a trouer a luy vn home al guerre deins les 4. meres, si suit grand seriantie ou nemy, ou suit responde, que suit: et adonques il demaund si le roy auera relefe solonque le value del terre ou nemy, ad quod non fuit responsum, car ils ne besoigne de responder luy a ceo, pur ceo que si suit grand seriantie, il poet scyer per le vsage en le eschequer, quel summe il payera &c.

3. Et dillonques vient le notice del ley a Littleton, que si le villeine le roy purchase biens, et alien eux deuant seiser, que vncore le roy poet eux seiser apres, car tyelment suit le vsage del eschequer, en quel court tiels biens fueront respondue al roy, et la il appryse, quòd nullum tempus occurrit regi.

M M.
Les speciall cases sont ceux

4. Issint en le case sir William Sentlow, que a mary le feme de sir William Candish, mise per Gerard per que il apiert. que si ascun est accounptant al roy, ou si ascun money ou biens ou chatels personals del roy, veigne al mains dascũ subiect per matter de record, ou matter en fait, que le terre de tiel subiect est charge pur ceo, et subiect al seisure le roy, en quecunque mains que il veigne apres, soit il per discent, ou purchase, ou anterment.

5. Et sur semblable reason le case est rule in 50. lib. Ass. lou vn R. auoit receaue certeine biens de sir Hugh Spencer que suit atteint, per que les denyers attient al roy. R. que auoit les ioyntement oue sa feme, mozust: et per agreement de touts les iustices, le terme en les mains le femme suruiuor fuit charge al execution le roy pur les denyers. Car le roy puit auer execution de ceo en le vie le baron, que fuit garrant per moults recordes en le eschequer.

Les reports de nostre ley sont fait pur le pluis grand part de les parols et dits de les iudges, et ceo en que ils assentont est prise de estre le ley.

Iesques icy nous auons proposé le confirmation del Records, per vne generall axiome prouee per diuers specials: ore est a dire del secõd proofe, que est vn argument a fortiore.

Ergò a fortiori lour iudgements et lour affaires entres de Record en courtes, doyent estre prise de cy grand, ou pluis grande effect, que lour parols, ou dits.

Ore est adire de second kinde de testimonyes s. de les escripts, dicts, et edicts de certeine homes, Et sont quater. le quart de queux est illustre per vn argument a diuersis.

1. Fuit dit per Gerard que en le lyuer appelle expositiones vocabulorum que fuit mise en print 40. ans passe, il est declare que mynes de ore et argent en quecunque terres que ils sont, afferont al roys de realme.

2. Isslint Wray dit, que Hesket apprentice que fuit perbien apprise en le ley, en son lecture extant sur le statute de charta forrestæ, affirmast, que si fueront mynes de ore et argent en terre del subiects deins le forrest, que ceux afferont al roy.

3. Isslint il dit que il auoyt view les leys de saynt Edward le confessor, en queux fuit conteigne, quòd thesauri de terra pertinent domino regi.

4. Isslint dit Barrham del leys William Conquerour queux il auoyt view, queux auoyent semblables parolles, queux leys fueront recites a luy per les sages del realme a ceo iures, que ils deuant mesme le roy W. Conquerour verament reciteront les leys del terre, nihil prætermittentes. Queux parolles Thesauri de terra, les dits sertaunts pristeront pur owres de ore et argent, et nient pur treasor troue. Car disoyent que ils sont appelles, Thesauri in terra, et nemy de terra, et issent diuersa.

Actes

Touts les prerogatiues le roy sont conteines en le treatise de prærogatiua regis.

assets est dit de les arguments que fueront in confirmando, ore est besoigne de dire de les arguments in confutando. Car il poet estre dupliciter obiect 1. tyelment per vn argument a toto.

Mes que le roy aueroyt les owres &c. n'est conteigne en le treatise de prærogatiua regis.

Ergò n'est ascune prerogatiue le roy.

Primerment, le treatise de prærogatiua regis n'est ascun cause per quel le roy aueroyt ceux prerogatiues. Car le effect ne poet preceder le cause. Mes les prerogatiues la recitees en maner touts fueront al roy deuant le dit treatise escrye. Ergò ceo treatise n'est cause del prerogatiues le roy, le minor, ou assumption est proue ab adiuncto temporis, car le pluis grand part de eux est recite per Britton en son lyeur en le chapter de trouers et de droits le roy quel lyeur fuyt fayt deuant le treatise de prærogatiua regis.

A cest obiection il est dupliciter respondue: Car le proposition, s. le maior est false pur deux causes.

2. N'est ascun argument a toto ad partes, car le treatise auantdit n'est totum, en respect del particuler prerogatiues le roy. Car ceo treatise ne conteigne touts les prerogatiues le roy, mes part de eux: et issint le argument nient conclude. Et il est proue que ceo treatise ne conteigne touts les prerogatiues le roy, per vn induction de moults special prerogatiues, nient compprehends en ceo treatise, tielment,

NN.

NN.

1. Le roy auera action ou suite d'accoumpt vers les executours del testatoz le roy, per prerogatiue donc a luy per le ley.

2. Il auera les biens son villeine vende deuant seisur.

3. Il seysera le terre que suit a cesty que doit render accoumpt a luy, ou que auoyt reccu ascune biens ou chateux del roy, en quecunque mains que mesme le terre veigne apres.

4. Il poet wayuer issue, et demurrer en ley, ou econtra, poet wayuer demurrer, et pleader al issue.

5. Il auera treasure troue.

6. Il auera eschcate de eux attteint de treason.

7. Deuant l'estatute de 1. Ed. 3. il aueroyt en fee le terre tenus de luy, et alien sans licence.

8. Il auera, pur satisfaction de sa det, ceo que est deliuer en court en execution al dettour le roy. Ed. 3. 43.

9. Si le patron ne presente deins 6. moys, et le euesque et apres luy de metropolitane suffer le laps, ou si euesque patrone, et le metropolitane suffer le laps, le roy auera le presentment, per son prerogatiue: 27. E. 3.

Et vncore ceux prerogatiues ne sont recite en le treatise de prærogatiua regis.

Ergò le treatise de prærogatiua regis ne conteigne touts les prerogatiues le roy.

Ceo que touche le franktenement et inheritance del subiect, ne doyt estre fayt per le roy.

Le second obiection est tyel ab adiuncta iniuria.

Mes de fower terre, et prender dillonques le owze, quel est part del soile, touche le franktenement le subiect.

Ergo le roy ne doit ces faire. LL.

Car sicome prescription et vsage poet doner tytle ou interest al subiect en le franktenement ou inheritance le roy, come in commen, ou boy, ou estouers clayme per prescription en le terre del roy, ou en wayues, estrayes, wrecks, ou tiels semblables pertinent de droyt al roy, et vncore clayme per prescription per les subiectes: Issint et per mesme le reason, prescription et vsage poet doner al roy tytle ou interest en auter frãktenement: cal il ne serra de pyer cõditiõ que le subiect, que auera ceo per prescription vers les subiects et vers le roy.

Le primer est a pari, a le pareil.

LL.

Le maior, le proposition du cesty sylogisme est false: que poet estre proue per deux arguments.

Le second est derive del vn enumeration de speciall prerogatiues que le roy ad en franktenements dauters. FF.

FF.

1. Deuant le estatute de magna charta, le roy per son prerogatiue puit entrer en auter boys et prendre arbres pur reparation de ces castels.

2. Deuant l'estatute de charta foreſtæ. cap. 2. le roy puit afforeſter le boys del auter home per que il fuit restraygne de succider son boys demesne sans licence.

3. Il apiert P. 7. H. 3. que le roy, et auter per son commaundement poet enfreinder vn stewe, que est auter franckstenement, et prendre le pische pur son prouision per force de son prerogatiue.

4. Villeine, que est le franckstenement et l'inheritaunce d'un auter, vient en le presence le roy: le seignieur del villeine, ne puit luy prendre en le presence le roy, 27. lib. Ass. Car le presence le roy est protection pur luy pur le temps.

5. Si le roy ad rent charge en fee hors del ascun terre il poet distreyner pur ceo per son prerogatiue, en tout auter terre de cesty que le doyt payer: 13. E. 4.

Mes en touts ceux cases, le franckstenement et inheritance del auter est touche.

Ergò le roy poet per prescription auer prerogatiues touchant le franckstenement dauter.

Touts ceux arguments fueront faits del part le roygne. Ex parte comitis, Shirbourne sole, alledge le opinion de Newton: 19. H. 6. per implication deste al contrary: ou il dit, que si home done terre en fee que ne vault 40. d. et percase le terre per casuel aduenture en cell, come per myne de oze ou argent troue, vault per an 100. li. Si l'impledee vouche le feoffor al garranty, il poet monstrer coment le terre ne vault forsques 40. d. al temps de feoffement, et a cel il est prist dentrer en le garranty, ceo serra bon plee, et ne garrentera pluys que fuit al temps del feoffment. Mes sil enter generalment en le garrantie, il rendra in value tant come il est oze: ex que dit (il dit) que fuit imply per l'intent del Newton, que le myne de oze et argent serra recouer oue le terre, et ne serra al roy.

Quant

Quant al second general point fuit inferre pur le roygne, que si issint soit que le roygne auera per prerogatiue touts les mynes de oze et argent en les terres de subiects, que de ceo il doet ensuer en maner come consequent, que il doyt auer ceux owres et mynes de quiure oze en question; s. cybien le cinquecent mille pois contenus en le primer ple en barre, come l'auter cent mille pois contenus en le second barre: plusoyrs sont reasons.

Le primer est quasi a parte precipua que trayt a luy le tout

Si le oze et argent apperteine al roy, donques le quiure apperteigneroit: car le oze ou argẽt et le quiure sont ensemble, et en le soile indiuisible, et leur commixture fait eux come vne chose entier: & omne magis dignum trahit ad se minus dignum, come oze et argent le quiure: cest confirme per troys specialles que sont semblables. (4.)

Mes le oze et argent apperteigne al roy, et est confesse que mesme sixcentmille pois de quiure conteigne en soy oze ou argent.

Ergò le quyure a luy apperteigneroit.

Le secõd est ab adiuncta absurditate,

Si quiure apperteigne al subiects que ne poet estre seuere mes per foundze, issint le roy serroit seruant al subiect pur fower et foundze son quyure.

Mes ceo est tout irreasonable et absurde.

Ergò il ne apperteigneroit al subiects, mes al roy.

(4)

En cause del charters del inheritance esteantes en vn cyste ou boxe enseale, si le possessor ent mozust, les charters afferont al heyze, et le boxe, si fuit ouert, al executours: Mes entaũt que est enseale, et illint les charters, et le boxe sont fait vne chose entier, et les charters sõt pluis prectous que le boxe le heyze que ad propertie al charters, auera le boxe auxi, et nyent les executozs, sur le reason auantdit.

Illint si vne chariot que est traye oue size chiuals eschue sur vn, et luy tue: les chiualles serront forfayt al roy come Deodand cybien come le charyot que tue l'home, pur ceo que ils fueront attache al chariot, et illint fueront come vn chose ensemble, que occasionont son mozt.

4.

Illint si obligation est fait a deux, ou deux sont possesse d'un chyuall, et l'un est attaint, le roy auera le obligatiõ, et tout le duitie, ou le chyuall, pour ceo que il est chose entier.

Donques per semblable reason et ley, pur ceo que le oze ou argent et le quiure sont ensemble, et en le soile indiuisible, et lour commixture fait eux entier, le roy auera tout ensemble. Quia magis dignum &c.

1. Records dont le

Primer est an. 7. E. 3.
2. 17. R. 3.
3. 7. H. 4.
4. 17. H. 6.
5. 30. H. 6.
6. 31. H. 6.
7. 33. H. 6.
8. 34. H. 6.
9. 2. E. 4.
10. 8. E. 4.

3. A genere tyelment,

Touts mynes et owres portãts ore ou argent et base mettayle en semble que sont en soyle dauters perteignont al royne: et ceo est proue per specials.

Mes le informa tion conteime que ceste myne cõteigne en luy ore et argent a uec le quiure: et n'est dedit per respons, mes pleinement con fesse.

Ergò ceste mine ẽ le terre le counte perteigne al royne:

2. accounpts rende al roy dont,

Le primer suit fait per William Wymoundham del prõfits del mynes en les counties de Deuon. et Corn. del 12. iour de August. An. 22. E. 1. iesques le 23. de September, 25. eiusdem regis.

Le second per William de Aulton clerke pur les prõfits del mynes en les counties de Deuon. et Corn. del quart del March, 26 E. 1. iesques le 18. de Aprill, 27. eiusdem regis.

Le tierce, per Mathew Crawthorne, de les mynes in Deuon. et Corn. 15. E. 3.

Le quart per Iohn Maneron que succeede Crawthorne, fait del 19. E. 3. iesques al 23. Eiusdem regis.

Le cinque per vn Robart Glouer.

Touts mynes en quex est ascun argent ou oze, apperteigne al roy.

Le quart est deduct hors de les dits recordes et est a genere, Illint.

Mes les mynes de quyure conteignont argent, Car nul myne d'estayne est voyde d'argent:

Ergò touts les mynes de quyure apperteigne al roy.

Et ceo est confirme per charter le roy Edw. le primer graunt al subiects del counte de Cornewale, cõfirme per le charter le roy R. 2. que fuit mitigate per lesta: de 50. E. 3. per queux apiert que lour autozitie en Cornewale et Deuon. de fower et de auer estayne fuit derive del roy: et certaine quantitie del estayne est payable al cozone pur tyel libertie iesque a ceo iour: come en ascun lieus en le countie de Darby le roy ad certayne quantitie del plumbe sur consideration que argent est en ceo, et que il absteynera de vser le extremitie de son prerogative. Mes en Darbyshire et ailours ou sterile mynes de plumbe ont este apiert tout temps, et le roy nauoyt ascun profite, les subiects la poient prescriber pur ceo vers le roy, et le fower et prisel del plumb sans payment, est prescription pur le pays, et come Hesket auantdit tient, le prescription en tiel case est bone. Car il y auoit diuersite del mynes de plumbe, car ascunes fueront fertile, cestassauoir, conteignants en eux oze ou argent: et ascuns sterile, cestassauoir, sans oze, ou argent.

Iesques

Jesques icy del part le roy ne ore est a dire del respons fait per part le counte, et ceo en deux maners. Car

Primerment ils, supposant le autoritie de Records estre tresgrande, donont a eux vn reasonable exposition. Car il ny ad ascune myne de estayne, de quiure, ou de plumbe, ne de ferre, mes que ascun ore ou argent poet etre treate ou finate hors de ceo (et issint le roy aueroit touts mynes de base mettale deins le realme, que est absurde) donques icy le roy auera ceux prerogatiues, ou le ore et argent que est en le base mettale, excede le value del base mettale, ou al meins suffist al porter touts les expences destre defray entour le acquisition de ceo, et selon cest exposition ils primerment interpretont les parols del records et le maxime de magis digno, puis print exception contre l'information. A A.

Le autoritie de Records, come choses faits al importunate request de eux que sueront al roy pur gaigner, et tollerate per les subiectes, eo que ils aueront part del gayne, issint ils vituperant l'effect pur le cause &c.

1. ils denyont tam bien.

Come ceo que est collett del charter le roy es al ceux de Cornewale: Car apiert per les parols del charter que lour libertie ne prist original commencement, mes tantsolement confirmation et direction per ceux charters et coment que le roy ad ascun profite, ceo nest en respect de ascun interest en le chose, mes pur porter le charge des officers, stryers, controllers &c. sicome il ad del merchants, car il appoint serchers &c. Queux auom stipends de les merchants &c. tamen nont ascun property in lour merchandise &c.

Ceux parolls, aliquid auri vel argenti habeatur, illint que ceo aliquid sott tant que vault le charge del Fower et sercher &c. car autrement ceſt aliquid, n'eſt aliquid, mes ceſt aliquid nihil eſt, et meyns que nihil, Car ex nihil home auera nihil, mes icy de ceſt aliquid il auera perde, ſi pur acquirer le oze de value de 4. d. il ſerra al charge de 5. d.

Et le maxime, quòd omne magis dignum &c. Car ceo eſt intendible ou le choſe pluis digne eſt de aſcun value, ou de pluis value que le baſe choſe eſt. Car de minimis non curat lex, come en action de waſt del 2. d le plaintife nauera iudgement: et ceſt lour interpretation de ceux parols de etre intelligibles lou fuit grand abondance de oze en les mynes eſt confirme per le reſcruation del roy H. 4. S. Nonam libram de argento puro inde proueniente, illint que le roy intende grande quantitie de argent de eſtre en les mynes, entant que il n'ad reſerue aſcun part dauter mettall.

primerment interpretont

A A. Selõ l'expoſition auant dit, ils

Infozmation pur le roy eſt le declaration le roy, quel doit conteiner certeintie, illint que le partie auera perfect ſcyence a quel choſe reſpõdera, et le court de quel choſe il adiudgera.

puis repzehendont l'infozmation per argument a deſcriptione. Car,

Mes icy per l'infozmation et le reſpons eſt diſcloſe et confeſſe que le counte ad pziſe ſixcentmille pois de owze de quiure conteignant en ſoy oze ou argent troue et fowe en ſon terre demeſne, ſ. ſinquecentmille pois en myne apert puis que le counte fuit ſeigniour del ſoile, et centmille pois en myne en ſon ſoile apert deuant que il fuit ſeigniour del ſoile: et ne apiert ſi le oze et argent en tyel owze fuit de greinder value que le quyure, ou al meyns d'aſcun value ouſter le charge de acquiſition, et ouſter le baſe mettell, pur ſacyer le loyaltie del fayt del counte.

Ergò n'eſt bon Infozmation.

Jeſques

Le roy et royne P. et M. ont en l'une cals graunt al counte le terre en que le owze fuit, et en lauter cale le myne per le nome de touts et ſinguler mynes. Car le vaine dont les 500000. pois &c. ne fuit myne al temps del date al counte, eo que fuit cloſe, pur ceo pallera per graunt del ſoile, come part de ſoile. Mes en le ſecond plee le vaine pallera per nome de mynes, car le vaine fuit patent &c.

Ceſt antecedent del enthymeme eſt pleinement illuſtre per vn amplifica-tion del obiections que poent eſtre fait del auter parte encounter le counte: et ceſt preoccupation eſt deriue del diuers adiuncts incidents al patents le roy et royne QQQ.

Iesques icy del general points ozre eſt a dire del ſpeciall, que eſt proue del part le counte per vn enthymeme conteynant leffect et graunt le roy et royne; a partibus ad totum.

Ergò tout ceo que eſt conteigne en l'inforamation perteigne al counte.

De gratia sua speciali, pretend grand fauour le roy, et son bountifulnes vers le patentee.

primerment recites briefement, et opposes encoūter les obiections del auter part car les parols,

Ex certa scientia pretend pleine intelligence de roy et royne en le matter, et exclude tout ignorance.

Ex mero motu, testifie, que il nauoit ascun suyt ne suggestion de patentee, mes que le primer motion, et tout le sequel al perfection del patent procede del roy mesme, et pur ceo, le effect del patent serra le pluis amplement extende al benefice le patentee.

QQQ.

Les adiuncts incidents al fait et patents sont,

Tam bien per vn distinct proposition de les obiections et seueral applying de respons. BB.

secondement pluis amplifies,

Come de nouel confirmation de ceo per induction de specialls.

SS.

BB. Dõques le,

Primer

Second. O.

Tierce, R.

objection est tiel, car,

Ascun de part le roy et royne poet dire, que quant ils granteront le terre, que ils ne conusteront que tiel vayne de owre fuit en ceo, ou quant ils graunteont omnes & singulas mineras, que ils ne conusteront que oze ou argent fuit en les mynes.

respons est,

1. Propose tielment.

Sir, ils meisme ont tesmoigne le contrary, south le grand seale dengleterre, que est tesmoigne de verite, et nient impugnable en ezedit. Car, ont dit, ex certa sciẽtia, que est tant a dire, que ils ont conusance de chescune chose materiall.

2. Confirme per vn argument, a maiori.

In 43. E. 3. Thorp dit, si vn manoz a que vn auowson est appendant soit en le mayne le roy per escheate, ou purchase, si le roy a ceo iour done le manoz a vn home auxi entierment come vn tiel tenoyt deuant que il vient en nostre mains per voy descheate, ou que vn tiel tenoit que nous enfeoffa, le auowson passera, sans dire, cum fœdis & aduocationibus: et le cause est pur ceoque le ley entẽd en tiel case, que le roy est appriise de sa droit, quòd curia concesit la, et si serra dit illint en ceo case, lou n'est prise mes per implication que le roy est appriise de son droyt: a fortiore serra prise illint, l'ou le roy illint dit per expresse parolles.

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O. Le

O. Le second — objection: Si aſcune voet dire que les parolls ſerront ſtraitement pꝛiſe vers le patentee, et beneficialment vers le roy et le royne.

O. Le second — reſpons: Sir, ceo patent fuit fait per le roy et royne de gratia ſua ſpeciali : per queux parols ils ſignifiont lour fauour et grace al patentee, et per ceo donont intelligence que les parolles ſerront fauozablement interpꝛete et largemente extende a ſon benefite et commoditie, et eſtraitment vers le royne.

R. Le tierce — objection: Si home voet dire que le patentee ad done information al roy et royne, et ad fait ſuit de auer grant, et pur ceo cheſcun parol ſerra pꝛiſe eſtraitement vers luy.

R. Le tierce — reſpons: Sir, le roy et le royne ont teſmoigne le contrary, car ils ont dit, que le graunt eſt fait ex mero motu ſuo, per quel ils voilent, que ceo fait de loure mere motion pꝛendꝛa effect amplement.

S.S. Le nouel confirmation eſt per induction de ſiz ſpecial caſes, ou ceux parols, ex gratia ſpeciali, certa ſcientia, et mero motu, ſont ſemblablement expoundes.

1. Per Huſſey. 9. H. 7. 2. que pꝛiſt difference inter patent ex certa ſcientia, et per informamur.
2. 1. H. 7. 13. en charter de pardon.
3. 3. H. 7. 6. en caſe de pꝛioꝛ de Norwich.
4. 22. E. 4. 44. en caſe abbe de Waltam.
5. 36. et 37. H. 6. 24. en le caſe de Quatermaynes.
6. 41. E. 3. lib. Aſsiſ. 19. Licence de doner en moꝛtmaine. A ceſt derniere caſe eſt adioigne vn auter reaſon, que ſi le counte nauera les mynes, donques riens paſſera per ceux parolles, omnes & ſingulas mineras &c. et en le generall concluſion eſt dit que le patent fuit fait deuant leſtatute de 4. et 5. de le raygne de les dits roy et royne, fayt touchant lour letters patentes, & ſic, eſt mult ayd per ceſt ſtatute, que patents ſerront beneficialment expound pur le patentee, nient obſtant le defect del very noſmer de les natures, genres et ſoꝛts de les hereditaments conteynes in tiels letters patents.

Ceo que vient al roy en respect que il est possessor del corone, ne passera per graunt de terre Vide,
L. L. L.
Mes le owre de ore et argent apperteigne al roy come il est possessor del corone, et nemy del terre: et en ceo respect il ad le owre en son soile, et en soile d'auter.
Ergò ne passera &c. Car sil alien le soyle, il n'ad per ceo alien ceo point de prerogative sa corone en la soile.

1. Issint arguont,

Le primer est, si per le graunt de soile en q; le owre fuit, fait ex gratia speciali, certa scientia & mero motu, le owre de quyure conteignant ore, ou argēt (le bayn de quel ne fuit apert, mes secret) passera al patentee, ou nemy, et semble a eux, que nemy, Car,

Le counsel le roy encoūter ceo, et cō sider deux points

Le second est, si per le graunt fait de touts mynes, oue les parols susdits, si ceo myne de quiure conteignāt ore ou argent passera al patentee ou nemy, et semble a eux que nemy.
P. P. P.

2. Issint, et est respons al dit argumēt sur ceux parolles ex gratia speciali &c.

Car le patent que est issint fait, serra prise fauorablement al patentee: mes ceo est quant al chose exprese en le patent, que les parolles monstre de estre entende de passer, mes ceo ne boet faire enter chose de passer que n'est exprese per parolls de patent destre entende. Car si le roy graunt et entende vn chose, tyels parolls ne poyent faire deux choses de passer, come est en le case de Prior, de Wenlocke: Nouā natura bre: Fol 232.

L. L. L.
Cest maior, seu propositio est proue per enumeration de,

Particuler choses del prerogatiue que ne passont per done le soile, come
- Wayue,
- Estray,
- Wreck,
- Et tyels semblables choses que sont collaterall a le terre.

Speciall cases ceo confirmants dont le
- Primer est de manor deins vn forest le roy escheate al roy et done per le roy al auter &c.
- Second est le iuery graūt al heyre de tenant le roy en capite, en quel le clause de salua al feme sa Dower per le roy assignanda, n'est conteigne.
- Tierce est en 31. E. 3. de vn aduowson, descend a troys coperceners et Fitz: Quare impedit 1.

Termes en patentes de roys que comprehendont choses annexe al corone ou prerogatiue royall, ou de grand importance et chose de pluis base degree, serront prise et construe de faire les choses base solement de passer al patentees, et ceo est confirme per special cases. R.R.R.

mynes royall que consist de oyr ou argent ou de base mettalles conteignant en soy oyre ou argēt.

mes en ceo patent est issint. Car sont deux maners de myns

1. Issint.

Base mynes que consist solement de base mettalle et substance s. quyure, estayne, plumbe ferre ou carbones, et neyant en eux oyre ou argent.

P P.P.

Quant al secōd point, et le graunt specifie en le second plee, s. de omnibus & singulis mineris, il est tielmēt argue encounter le counte,

Ergò en ceo patent les termes serront construe de faire le base mynes passer, et nemy le royall.

2. 4.4.4.

3. 4.4.4.

1. En. 22. E. 3. lib. ass. 45. En grant al mayster de S. Lenard de bonis felonum, vbi excipitur treitor.

2. En returne de touts maner de brieues graunt alyn, ou somons sont except, car touche le roy.

3. En graunt de fynes, issues &c. de ses tenants; il nauera fynes del home que est tenant de luy et del auter.

4. En 3. E. 3. Fitz assise 445. de pount eschue et destre repaire ou generall charter le roy ne excuse le abbe que suit charge per speciall cause.

5. En 9. H. 6. 56. En graunt le roy de terres en fee oue garrantie, le patentee ne recouera en value sans expresse parols. Car garrantie ad deux effects, l'une a rebutter, et ceo il fra la: lauter a recouer en value, et ceo ne fra en le case le roy sans precise parols.

6. En 2. H. 7. 6. En le case del counte de Northumberland, lou le graunt le roy des amerciamentes en tyel countie, ne tra'yt les amerciamentes del vicount, coroner, ou auter grand officer pur son misdemeanour, car ceux sont royall amerciaments.

7. En 43. E. 3. 15. lib. ass. En graunt le roy del duchy de Cornewale a son eigne fits, ou per generall graunt, vn speciall gard ne passa.

R.R.R. Speciall cases.

8. 5. E. 2. Fitz Quare impedit. 165. ou le roy pur aduowson en le countie Palantine de Durrham suist Quare impedit en le comon banck, lou pleder al iurisdiction del court graunt per le roy, ne excuse le plesdar.

9. 3. E. 3. Fitz. Graunt: 102. Ou le roy auoyt grant a vn abbe que il puit amortiser terres al value de 100. s. et vncore ne puit purchase auowson tenus del roy en chiefe. Cest case differ del case en 4. lib. ass. cite del auter part: car la, le charter le roy nosme le mease &c. issint que ne poet estre entende, que il fuit ignorant del tenure, mes icy in 34. E. 3. Le patent est generall que il amortisera terre de value le 100. s. &c. Come dit Wray apprentice: mes auters ceo denyent, car le aduouson fuit hic nosme auxi.

10. 19 Fitz: Graunt: 58. lou licence le roy de approprer l'aduowson ne puit faire aduowson tenus del roy destre approprer.

11. 1. H. 7. 23. et 26. En case del sanctuary, ou le charter le roy generall ne fuist sufficient de faire sanctuary pur treason.

12. 18. H: 8: Brooke Estates: 84: et Patents, 104. En le case de Bowrehall en Essex, l'ou fuit tenus, que nul estate de inheritance passera, nyent obstant les parolls de gratia speciali, &c. per queux le roy auoyt grant ceo a vn home et ses heyres males. Donques les parols en charters le roy enureront al comen entent, et ne deuesteront del roy, choses de haut degree, ne choses annexe al coron in point de prerogatiue.

Car quant a ceo que Shirborne dit, que si le counte nauera les mynes royall, il auera ryens per le parolle, Mynes, car le base mynes passeront per le graunt del terre. Sir, que adonques ? ils sont parols de surplisage pur mines en mesme le terre, come sont les parols de graunter gards, maryages, et escheates, que sont plusors foits mise en patentes : ou autermentpoient prendre effect pur mynes que Henry le counte auoyt en terres dauters.

444.

Secondment ils respõd a ceo q; est dit del auter part.

Et quant a lestatute de 4. et 5. P. et M. Barrham dit, que voyer est q; l'act fait les letters patents bon nyent obstant le defect, del very nosmer de le natures, genres, et soztes de les hereditamentes : mes ceo serra solõq; le tenoz de mesme les letters patentes. Et voyer est que l'act dit que les letters patentes serront expounde pluis beneficialment pur les patentees, mes solonques les parols et purpoz de les letters patents, et sur ceo ils issint conclude.

Si en le parol, terre, en lun case le owze royall nest graunt: ne en le parol, mynes, en lauter case : donques, lact nextende mes al base owze : et pur ceux serra beneficialment expounde en auantage del patentee : car ceo est, solonque le tenoz et purpoz del patents.

Mes en le parol, terre, en lune case &c.

Ergõ le act nextend mes al nature del base owze &c. car dextender al owze royall, serra contrary al purpoz del patent.

Ceo que est incident al corone inseparablement, ne poet estre graunt ou seuere del corone, per expresse paroll.

Assint

Mes ceo myne, est cant myne royall, est incident al corone inseparablement, come escheate pur treason:
Ergò per expresse parolles ceo myne ne puit estre graunt ou seuer del corone, multo minus sans expresse parolls.

7.7.7.
3. Deux seueral opinions de ceux de ceo part sont recite, car ascūs arguont

Si le ley soit tiel que le roy poet graunter point de sa prerogatiue a auter, à fortiore il le poet en nostre case, ou le chose n'est que reuenue ou profite del corone, que poet estre icy bien lease ou demise a auter, sans rent, come pur rent.

Ascuns encounter ceo, à maiori.

mes le ley est tiel : que est proue per deux speciall cases

Le primer est en 20. E. 3. Fitz. Corone. 12. 5. lou le roy auoyt graunt as cytisens de Loundres que nul gagera battaile vers eux en appeale et vncore ceo est vn chose annexe pluys procheine al prerogatiue le roy, et al person le roy.

Le second est issint: si home prist les biens le roy torcionelment le roy poet prender ou seiser ses biens tanque il ad fait restitution, come le comen vse del eschequer est, vncore le roy graunt ceo al ville de Lynne. 8. R. 2. Fitz. Graunt placito vltimo.

Ergò multo magis il poet en nostre case ec.

Hactenus

Le matter en ley, in les points.

Hactenus des arguments in vtramque partem: ore del opinio des Justices que est cõcernant,

Pur le primer ils agreont.

Que touts mines d'ore et argẽt, en quecunq; soyle, perteigne al roy per prerogatiue, oue libertie de fower, caryer &c.

Que mynes de quyure, estayne, plũbe, ou ferre sans ore ou argẽt, perteigne al proprietor del soyle, car en base mettayle, null prerogatiue.

Et per Baron Freuil, q; sil y ad quiure in vne veyne sans ore, et in fower outer il apiert ore, et petite d'auter mettayle, ces serra dit myne de quyure de ore, et nyent de quyure solement.

Generall, et

Pur le second, fuit agree per Harper, Southcot, et Weston, que si le value de ore ou argẽt ne exceede le value del base mettayle, tout affiert al proprietor del terre: mes si exceede, tout est al roy, et serra dit Myne Royall.

Special,

Fuit agree per touts, que touts mynes Royall, soyent de pure ore ou argent, ou soyent de base mettayle conteynant ore ou argent, poyent per apt parolls estre graunt, car ne sont inseparablement incident al corone.

Fuit agree per touts forsque les troys auantdits, et per eux auxi, si ceux mynes in question sint royall mynes, que les owres in le primer ple speciffe per grant del soile, ne le myne in le second per graunt del mynes, ne passeront al counte per le patent, mes besoigne d'auer speciall parolls, car soile et myne icy serront prise al comon intent pur base mynes &c.

Lact del 4 et 5. P. et M. ne ayd: car l'intẽt del charter est del mynes base, et nextend al mynes royal, mes per Dyer si null myne soit forsque royall, donq; passeroit, car aliter les parols serroint voyd, mes icy sont auters mynes, s. base perq; &c. et per mesme le Dyer comẽtq; le myne in le primer ple ne fuit apiert al temps del date del patẽt, vncore serra dit myne, car de Mineris aliquæ sũt occultæ, & aliquæ apertæ. Catlyn dit, que, les parols ad humilem petitionem eiusdem comitis, diminuont le force des parols, ex gratia speciali &c.

Le pleading et informatiõ.

L'informatiõ fuit challẽg per Mead, quia ne fuit mõstre en quel vil ou Hamel Newlands gist: mes fuit respõd, q; ne besoigne, quia n'est en effect forsq; pur trespas, et nul serra recouer forsq; dãmages: contra in action real, car l'a sur recouery, le vicount ne puit luy metter en seisin sans notice del vuit &c.

Le pleading del part le counte fuit vicious: car doit auer mõstre q; le mine conteigne forsq; petite ore, ne tant come ferra les charges: mes ceo il ne ad fait, iaq; per le general confession q; il ad ore, serra prise pluis beneficialmẽt pur le roigne encoũter le pleadant, q; il ad assets del ore. Imò touts forsq; les troys auantdits agree que tout serra al roigne, comentq; le base mettayle soit de greinder ualue, eoq; est confesse que alcune ore ou argent fuit en ceo.

Plees

Pleas del coyone, sont q; cõceigne offences faits encounter le coyone et dignitie le roy atque hic Stanford agit;

1. del nature des dits offẽces, vbi fait ascauoir q; les accessoyres deuant, s. les procurers, ou apres s. les receiuors ou fauorers, pari pœna plectentur. Stant. 40:41:42.43:

Home poet estre accessory al accessory, sil felonice receaua vn accessory, 43. b. et la, 44:

Licet vn statute que fait ascune chose felony, ne parle des procurers et receiuers, vncore serront deins l'estatute. Offẽces encounter le coyone sont.

2 Des penalties de meismes offences. QQ.

Felony, que est offence del coyone, immediate vers vn comon person, et cõcerna les

Biens, A. A.

Le person, B:B:

Treason, que est offence del Coyone immediate encounter l'estate le roy & royalme, estq;

Grand

Come compasser ou imaginer le mort le roy, sa roigne, lour eigne fits, violare le roigne, ou leigne file le roy nyent mary, ou le feme l'eigne fits le roy; Leuer guerre, adherer as enemies le roy: counterfeiter le grãd ou priuy seale, ou sa money: porter faux money in le realme coũterfait au money dengleterre, tuer Chauncellor, Treasuror, Justice dascun banck, en eyre, ou assises, doyer et terminer, seants in lour place, et ce per Lest. de 25. E. 3. cap: 2: de proditionibus: Item counterfaister de priuy seignet 1. M. cap: 6: vide lest: de Elis: ca: 11 et 18. Elis. ca. 1. de clippers, washers, filers, roũders, et lour abettours, quelconque soit le coyne, dummodo soit currant icy.

Petite

Vide meisme lest: de 23. E: 3; ca: 21: que n'est que explication del comõ ley. Come, Quant vn seruant tua son maister, feme sa Baron, home seculer son prelate: feme sa mystres per 12. Ass. p. 30. 10. H. 6. 47. cõmẽt que soit hors de seruice dũmodo fit de malice conceaue in seruice. Fitz: 210. Imo les abbettors hic puniuntur eodẽ modo. Fitz: 216. Itẽ mitter excommengement south bul le pape, 30: Ass. 19. Item vsage debrusa le prison et amesne prisoners, 1: H: 6: 5:

Vide Stamford, pag: 10. a. b.

Huc refer mispriſion, s. le concealing de felony ou treason come, Justice de peace enrolla vn bille denditement nyent troue per le pais: Estranger vtter faux money, 3. H. 7. 10. Home trahe son espee de Ferir Justice seant en son place 22: E. 3: 13: Ferir ou bater vn Juror, in presence des Justices Fitz: Iudg. 174, vn ferist auter in le sale de West. Fitz. Cor. 280. Vide lest 33. H. 8. ca. 12. Pur drawing blood in le meason le roy. Item per Britton, Ribaud ferist vn honorable home, Justice arresta vn que fayt fray deuant luy, et vn auter luy rescussa. 22. E. 3. 13.

A. A.

A.A. Felony in biens &c

Destructis et ceo per

In bonis abductis

Del person dascun home hinc surdont,

Robbery scilicet,

Sil prist de mon person licet soit south xii.d. Del lieu, ou ieo suis presēt. Sil manace de moy occider, ou sil moy turer: Item sil gist en agayst, olim, contra hodie.
Hic de scimsors de burses: de queux Britton, 24,b.

Hic de Hue et Crye: Vide lest. de West. cap, 9. an, 3, E, 1. Lest, de Winchest, 13. E, 1: Lest, de. 28, E. 3, ca, 11. Et 27. Eliz. ca: 17,

Pyracy Vide lest. 28, H, 6, ca. 13, Rastall, Tryall, 8.

Primùm explicat naturam rei, & definit Larceny, et mette diuers cases et exemples: Larceny est fraudulenta rei alienæ pluris quam 12. d. valentis tractatio, animo furandi: inuito illo cuius res illa fuerit. Vide pag. 24. 25.

1. Agit in genere de Larceny, vbi,

Deinde latius illustrat furtum per les adiuncts — Vide, C. C.

Vel aliter, & est Larceny si supra xii. d. aliter n'est felony, mes petit Larceny per Stanford, q. atq; hîc,

2. De certis speciebus furti p statuta.

Recordes emblees, 8. H. 6. ca. 12. Pryse del feme inuite, 3. H. 7. cap. 2. Hunting in painted visors pur stealer Venison, et denier ceo 1. H. 7. ca. 7 Seruant prist les biens son maister, except prentises, et ceux que sont deins le age de 18. ans, 2. H. 8. cap. 7. Selling horses into Scotland, que est vn stealing d'eux hors D'englands 23. H. 8. cap 16. & 1. Eliz. cap. 8. Souldier steale away sans licence, 2. E. 6. 2. Multiplication, 5. H. 4. ca. 4. Prise de castels le roy, towers, ships, armor, ou practise de prender 14. Eliz. cap. 1. Seruant stela les biens son mayster apres sa mort, et ne doet aperer apres proclamations, per lest. de 33. H. 6. ca 1. Escippet iane forsq; a Calice, 18. h. 6. 15

Arsons des measons felonice, ou des Barnes adioinant al measons. Bourglours, que felonice in temps de peace debrusont measons, eglises, mures, towres, ports nocantes, licet riens import. Huc refer Drawlatches, Wastors, Robyeardes men, que serront arrestes pur suspicion, per lest. 5. E. 3. 14.

C. C. Illustrat Larceny per ses adiuncts. f.

De queux choses Larceny ne serra, Come de

Beastes sauages, columbes hors del douecoate, poysons in le ryuer, car nulluis in bonis. Cor. 185. 18. H. 8. 2. contre del debruser del douecoate, et prender les yong pigeons, 18: E: 4: 8. 10. E. 4. 15. embleer domesticall dame, felony. q. sil ne conust destre domestical, mes sil prist mort, cest felony.

Poet estre de ses proper biens, come baylor stela biens baylees, & tamen le propertie fuit en luy semper, 7. H: 6: 45. 13. E. 4. 10.

Item serra de personel choses, et nemy de reall; itaq; si home succida arbre et prist, nest felony, contra si fuit succide deuant, Cor. 119. Vor oue charters null felony, 10. E. 4. 15. treasure troue, wrecke, del mere, wayf, stray prise, null felony: Cor. 187. 265. car incertum, quis dominus: contrà de bonis capellæ, Endit, 15.

Larceny le possessiõ esteant in le owner. q. pag 26.

Feme per coertion ou commandement son Baron, q. vt nec ioyntment oue son baron: car serra l'act le baron: mes feme poet, inscio viro. Item feme ne serra accessory pur receiuer son Baron.

Quis non potest cõmitter Larceny, s. quis ne serra dit larson comentque il prist &c.

Infant de tender age, come deins 12. ans per Bracton: mes contra hodiè.

Huc pertinet le tractate de Thefteboote, quant home repriss ses biens emblees: mes properment est, quant home prist ses biens dun laron pur luy fauorer: nest felony mes punishable per ranson & imprisonment. All. 346: tamen, Cor. 353. fuit felony. Biens confiscques, que sont dones al roy, quia ne sont claymes per ascun auter, mes disauowed del laron. Vide Stanf. 186. diuersity inter biens confiscques, et biens forfets. Wayf, quant le laron fuit hue & crye & pursuite, pur easer luymesme del portage, wayua les biens ou part d'eux perque les officers le roy, ou auter in droit le roy seisist les biens, la le roy eux retiendra come waife, si non que le owner fait fresh suite, car donq; il reauera ses biens, issint, si le laron ne wayua, mes home in droit le roy prist eux de luy pur suspicion, le owner reauera sur fresh suyte. Null wayfe des biens prises per trespas: null wayfe de biẽs d'un qui ad saufeconduite in bonis & corpore. 13. E. 4. 10. Freshsuyte, quant le party pursue le laron cy hastymẽt que il luy apprehend oue le manor, et sur ceo port son appeale et luy conuince per verdit, mes hodiè suffist sil fait son deuoyr, comẽtque ne soit prise deins vn an apres, ou soit prise al suite d'un auter, et suffist conuiction sans atteynder. Mes per lest. 21. H. 8: ca. 11 il auera ses biens sur lenditement del felon, imò sil procure euidence destre done, sans ascun fresh suite, et semble, que si le seruant soit robbe, le mayster poet doner euydence et reauer &c.

B. B. Felony in le person, et ceo vel.

in parte

Sublata come in

Couper des langues

Vtrumq; felony per 5, H, 4, cap, 5,

Hic del Mayme, vbi le pt: poet eſlyer de fayre chescun principal, ou ſolemẽt ceſtuy que luy ferusk, et les auters acceſſoryes. Mayme per Britton, eſt ou aſcune member eſt toll dont home eſt pluis feble a cõbater, come oyel, mayne, pee, teſte debruſe, anterior dents: mes dents molters, oyalles, neeſe, n'eſt mayme, eins blemiſhe, hîc lex talionis, eſt lex Dei: mes noſtre ley agard tout in dammages.

Duſter des oyeles,

Corrupta per carnalem copulã: hæc copula eſt

Contrà naturã, & hæc vel,

Confuſio.

Specierum, home ou feme oue bzute beaſtes,

Sexuum, home oue home, feme oue feme,

ceo eſt Buggery, et eſt felony per leſt: 25, H, 8, 6, & 5, Eliz: cap: 17.

Inceſt, inter gradus prohibitos.

Secundùm naturam.

Scortatio inter perſonas ſolutas,

Si violence ſoit vſe, dicitur Rape: fuit felony al comon ley: puis, treſpas per leſt: Weſt: 1: cap: 13, tempore E. 1: poſtremò idem rex p Weſt: 2: ca. 34, fiſt ceo felony, comẽtq; le feme aſſent apres: vide leſt: de 6, R, 2, cap: 6, ſeuerall puniſhment vers le feme que conſenta apres.

Adulteriũ, cum altera perſona eſt deſponſata, vel vtraq;.

In toto, D: D:

Per lest. de 3. H. 7. ca. 13. si ascun del hostell le roy conspire le mort le roy, seigniour de priuy counsayle, Stewards, Treasorer, Controller del hostell, cest felony.

1. de certen statutes come,

Wilfull poysoning est fayt felony, c. est fayt wilfull murder, per lest: de 2. E. 6. ca. 2.

Si Gaylor per dures fayt home appryouer, cest felony per lest, de 14. E. 3. ca. 9.

Vide lest. de 1. et 2. P. et M. ca. contrà ægyptios: & 5. Elis. cap. 16. que fait conturation felony.

Britton dit, que sorcerers et miscreants serront arses.

D.D. In toto, s. in occisione, cùm quis iniustè priuatur vita, hîc vide Stanf: del coroner et son poyer de veyer le corps, a pag: 48. ad. 53. et del vicount, que si decolla vn home ou doit luy pender, cest felony: Hîc agit.

1. Breuiter describit ex Bracton, Homicidium est hominis occisio ab homine facta: sed ista descriptio nimis est specialis, & excludit Deodanda.

2. del comen ley vbi,

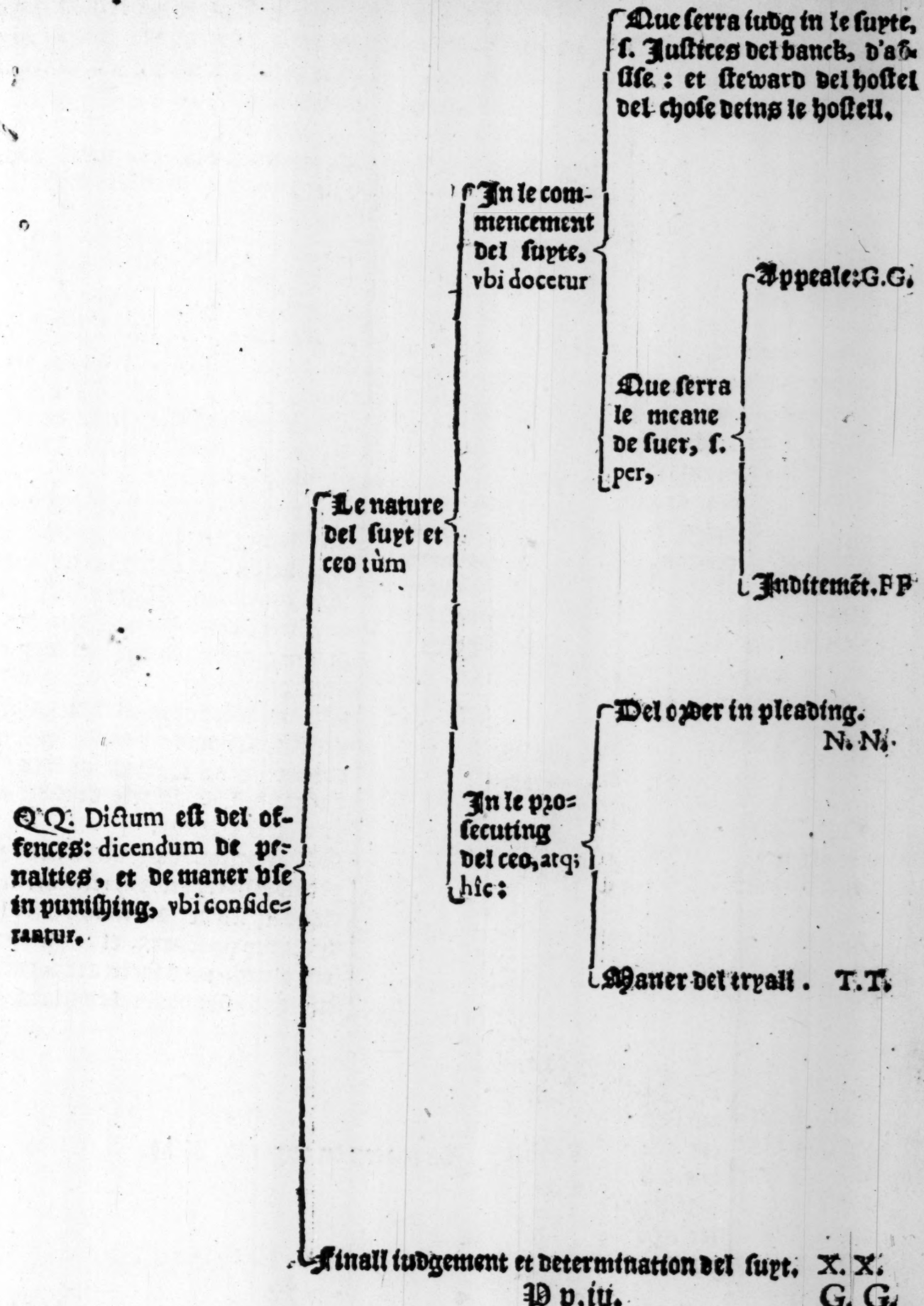
2. Explicat latius per-species, s.

Homicidium, manslaughter, sance malice pryepence: hîc si ascun chose q; n'est home, tua home, le chose mesme, & tout q; est moue oue ceo. serra forfet come vn Deodand.

hîc volũtas olim fuit felony sans act, contrà hodiè.

Olim le stryking d'un feme pryegnant, fuit felony, si causoit abortum, mes hodiè doit estre in rerum natura, et deuy deins l'an & iour puis le coupe.

murder, auec malice pryepence: hîc de felo de se,


Que serra iudg in le suyte, s. Justices del banck, d'assise: et steward del hostel del chose deins le hostell.
In le commencement del suyte, vbi docetur
Appeale: G.G.
Que serra le meane de suer, s. per,
Inditemẽt. F F
Le nature del suyt et ceo tùm
Del ouer in pleading. N. N.
In le prosecuting del ceo, atq; hîc:
Maner del tryall. T. T.
Q Q. Dictum est del offences: dicendum de penalties, et de maner vse in punishing, vbi considerantur.
Finall iudgement et determination del suyt. X. X.
P p. iij. G. G.

G.G. Appeale arq; hîc.

1. Per vn briefe diffinition ex Brytton. — Appeale est pleynte del home fayt sur auter, ouesq; purpose de luy attaynder de felony, per motes, a ceo ordeynes.

1. Le general nature de appeles exponitur. — 1. per vn large explication conteynant

Certeyne generall adiuncts del appeles

Come, vers queux Appeale gist, s. vers touts, que poyent fayre felony.

Deins quel temps serra pozt, s. deins l'an et iour, in appeale de mozt. q. de robbery et Rape.

Deins quel county. s. ou le felony fuit fayt. Vide lest. de 2. et 3. E. 6. ca. 24.

Deuãt queux. s. Cozoner. vicount, Justice de banck, et gaole deliuery, Justice de peace.

Du vn auera diuers appeles pur vn felony. Olim licuit auer vn vers le pzincipall, et auter vers l'accessozy. contra iam. Tamen in speciali casu licet, come si vn in vn county pzocure auter de robber moy en autercounty. q.

Du vn respondza al diuers appeales, s. home committ seuerall robberies as seuerall homes, il respondza al appele de chescune q. in mozt ou rape.

Si l'appellant surcessa son appele per nonsuyte, releas, retraxit, mariage apzes declaration, ou sil deuy, le roy pursuera, et le party ne irra alarg, mes serra arraigne al suit le roy sur mesme le declaratiõ.

2. Les particuler pzoperties del singuler appeales:

Mozt. S. S.

Robbery 4.4.

Rape. 8 8.

Le pzoces en appeale. M.M.

M.M. Le

M.M. Le prpces in appele ou inditemẽt vt Capias, Exigent, Certiorari &c. 67: hîc le principall serra primes attaint, et puis le accessary, 45. hîc

1. Le maner del intreating les prisoners quant ils sont in prison, est declare

Vide lestatute de 14. E. 3. ca. 9, contra le crueltie de gaolers.

Vide lest. West. 1. ca. 13. que notorious et rebellious felons serront en prpson fort et dure.

hîc de Escapes. V. V. V.

2. Le order,

del amesner eux al barre,

Per Britton, ils serront dischances, disceints, sans coif, en lour pure coat, hors de ferres, ne pœna faciat timidos: tamen p Bracton, propter euasionis periculum interdum compedes gestare possunt. Bract. lib. 2. Britt. fo. 14.

de lesser a mainprise

Per le comẽ ley ils ne serront mainprise

Qui fueront prises pur mort dun home,

Per commandement le roy ou les Justices.

ou pur le forest.

Per lest. West. 11. cap. 15. ne sont mainp.

Utlages deuant, forciurs, prours, prises oue le manor, debrusers del prison, notorious larons, appellees des prours viuãt les prours nisi soyẽt de bone fame, arsõs, fauxers del money, ou del seale le roy, excommẽge per prier leuesque ou pur apert malueste, ou pur treason.

Itaq; ceux que sont indite de Larceny per inquest d'office ou pur legier suspiciõ, ou pur petite Larceny, nisi sint culpable d'auter fayt, sõt mainpernables. sic appellees del prours puis le mort del prour.

V. V. V.

V.V.V. Escape per lest. 1 E. 2. de frā gentibus prisonam, rumper le prison n'est felony, si nō q; il fuit imprison pur felony. Null escape deuant arrest. hîc,

- 1. Explicat le nature des escapes, tùm
  - Per quandam definitionem del prison, s.
    - Imprisonment n'est auter que vn restraynt del libertie, itaque si home soit south arrest, come in cippes, ou in le possession de ascune home, cest vn prison, et lescaping del ceo, est vn debruser del prison.
    - Quin et rescus est rumper del prison, come si home prist le felon hors de ma possession.
  - per species
    - Voluntary, — Quant home arrest vn, et puis lessa luy aler hors del boundes del prison ou il veut, voluntariò.
    - Negligent. — Quāt vn est arrest, et escape encoūter le volāt le arrestor, et n'est freshment pursue et repris deuant que le pursuor ad perde le vieu del cestuy, que escape, Vide Stanf. 33.
- Ponit quædam generalia adiuncta.
  - Double escape, come — Home arreste, escape al eglise, et puis auxt fua del egliſe: ceo est vn doble escape.
  - Escape sans arrest, come — Home est murder in vn ville, per le iour, ou in cytie mured, per le nuicte: le murdrer escape sans estre prise, cest vn escape. Vide lest: de Wincheſter.
  - Que serra charge oue lescape, s. le vicount, garden, ville, Hundred, &c. 34.
  - Coment escape serra try et a-iudge, car prisoners sont
    - per matter de record — Quant vn present in court est committ al prison per le court: la si le garden n'ad luy semper prist, il est escape sans auter enquyry nisi ad reasonable excuse.
    - per matter en fayt — Quant vn est arrest per le vicount, constable, ou auter, et escape, la il ne respondra al escape deuant que l'escape soit present deuant Justices.
  - Le penaltie — De voluntary, felony. De negligent, fyne. Si soit pur felony, An hundred pound. Demant arrest, amerciament.

Particuler

Appeale de mozt S.S.

Feme auera appele de mozt son Baron, mes de null auter, le feme doit estre sa feme de facto & etiam de iure. Item doyt estre sole. Ou le feme poet auer appele, null auter auera ceo. Mes si le mozt n'ad feme, son prochein heyre male per le comon ley auera ceo. vide 60.

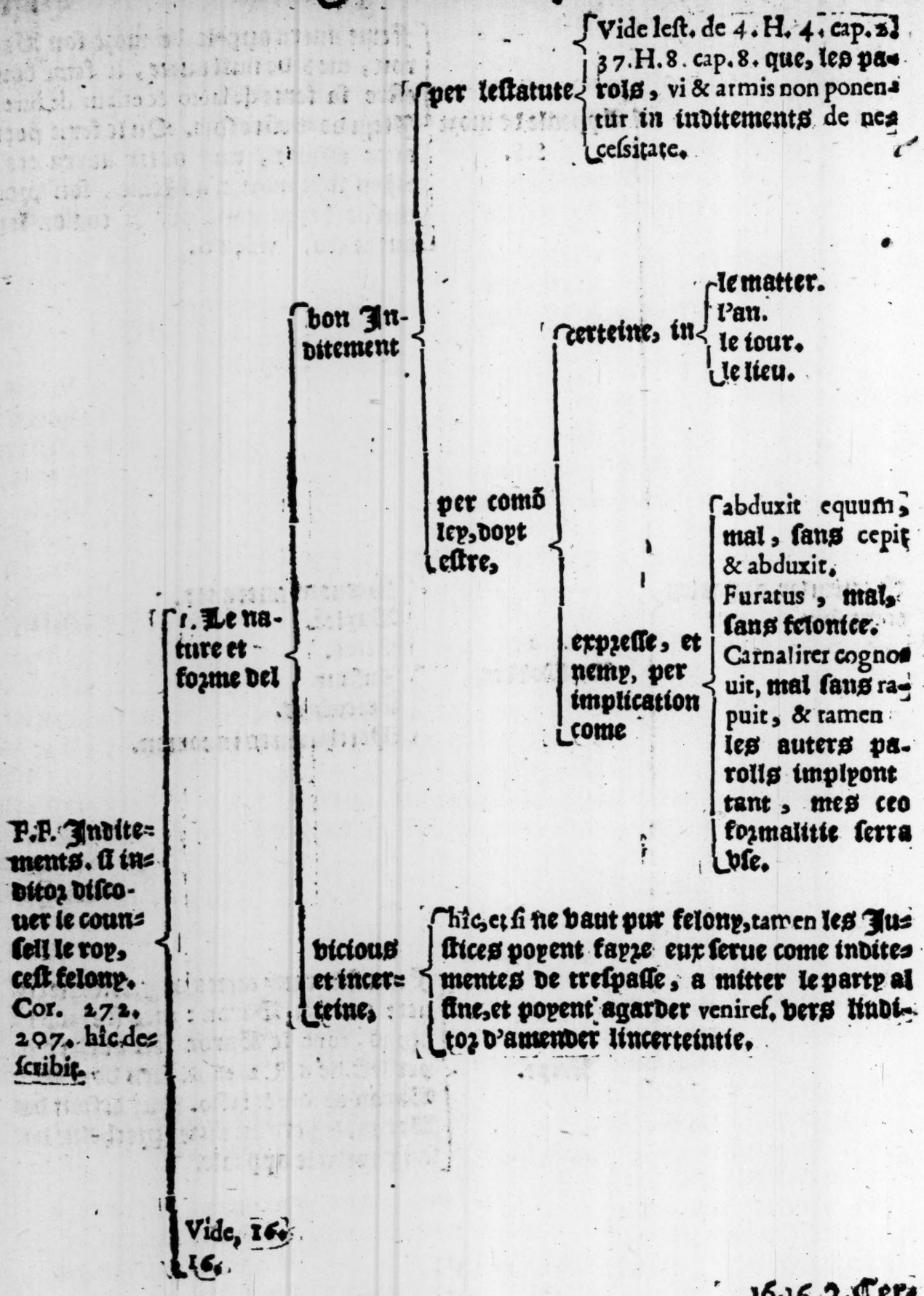
Particuler appeales come sont,

4.4. De Robbery,

Seruant auera ceo.
Baylee.
Feme.
Infant.
Executors.
Merchauntes in comon.

8.8. Rape.

Feme sole rauy auera appele: feme couert oue son Baron: mes si el allent apres, tunc le Baron sole auera ceo, per iest. de 6. R. 2. ca. 6. mes doyt estre Baron de iure & facto. Pur defaut del Baron, le pere ou auter procheine del sang auera le appeale.


F.F. Indite-ments. ſi in-dito; diſco-uer le coun-ſell le roy, ceſt felony. Cor. 272. 207. hic de-ſcribit.
1. Le na-ture et fo;me del
bon In-ditement
per leſtatute
Vide leſt. de 4. H. 4. cap. 3. 37. H. 8. cap. 8. que, les pa-rols, vi & armis non ponen-tur in inditements de ne-ceſsitate.
per comõ ley, doyt eſtre,
certeine, in
le matter.
l'an.
le tour.
le lieu.
exp;eſſe, et nemy, per implication come
abduxit equum, mal, ſans cepit & abduxit.
Furatus, mal, ſans felonice.
Carnaliter cognouit, mal ſans ra-puit, & tamen les auters pa-rolls imply ont tant, mes ceo fo;malitie ſerra vſe.
vicious et incer-teine,
hic, et ſi ne vaut pur felony, tamen les Juſtices poyent fay;e eux ſerue come indite-mentes de treſpaſſe, a mitter le party al fine, et poyent agarder veniref. vers liudi-to; d'amender lincerteintie.
Vide, 16.
16.

16.16.2. Cer-

16.16.

2. Certeine adiuncts per statutes et autrement, come.

- Del statutes dinditementes in Leetes Deins county Palatine, 33. H. 6. cap. 2.
  - 31. E. 3. cap. 14.
  - West. 2. cap. 13.
  - 1. E. 3. cap. 17.
  - 1. R. 2. cap. 4.
  - 1. E. 4. cap. 3.
  - Vide lest. Elis.
- Deuant Just. de peace.
  - 11. H. 4. cap. vlt.
  - 3. H. 8. cap. 12. contra.
  - 3. H. 7. cap. 1.
- In vn county del chose fait in auter county
  - 33. H: 8: cap. 23.
  - 1: & 2: P: & M: 10:
  - 35: H: 8: cap: 2:
  - 33: H: 8: cap: 20:
  - 2. & 3: E: 6: 24:
- Le forme del inditement d'accessary, s. Que il expressera le maner del felony, 81.
- Du verdit in auter action ou returne del vicount serue pur Inditemēt, car.
  - verdit in auter action seruera, car il y ad vn verdit de 12. homes &c.
  - contra de returne de vicount licet soit matter de record. Vide lest: de 25: E: 3: ca: 4: de ceo.
- differēce inter appele et inditement.
  - In appele de mort, mortui nomen ponetur: contra del inditement, car le mort poet estre mangled, et illint incognitus.
  - Inditee pledza misnosmer del surnosme, et poet apprower, contra d'appellee.
  - Si appellee pria clergy, il ne vnque fra sa purgation, contra d'inditee.
  - In appeale le def. poet auer triall per battayle contra in inditement.

A Logicall Analysis of

N. N. Ore in pleading, et

1. Le counte, que expressera le fact vel
- come fuit fayt,
- come le ley appoynt.

2. Le respondent d'appellee, quel respondent, vel,

defences. Que il defenda touts maners de appeles, agaites, assauts, purpences, et quecunq; est encounter le peace le roy, sa corone et dignitie.

plees, que
- vel orderly et solonq; le ley, et ceo vel,
  - Grcuse, idq;
  - peruerstly, hic del peine fort et dure. 10:10:10:
- baont
  - al briefe, car le brieke abatera pur faux latyne, ou defaute del forme etc.
  - in barr, sontq; vel
    - proper
      - al appeale 333:
      - Inditemēt 444.
    - comon al ambideux, come,
      - Auterfoits acquite. OO.
      - Sanctuary, RR.
      - Clergie, 555.
  - trenchont al fayt, come Rien culpable. 444.

Counsell. 7777777.

333. barres in appele, et hîc,

1. special et particuler barres, come

In appele de mozt,

per le feme, a dire: que el est marye arere, que ne fuit vnque accouple in loyal matrimony.

per le heyre:
- Le mozt ad feme in vie.
- Il n'est heyre, eins ad eigne frere.
- Il est bastard.
- Ne fuit pozt deins l'an et iour.
- Le party n'est mozt, eins in vie a tiel lieu &c. ou d'amesner lui in le court: ceux deux sont comon al feme.

In appele de robbery, a dire, que le pl: est son villen.

In appeale de rape per baron et feme: a dire, ne vnq; accouple, ou a pleder villenage in le pl.

2. generall, come a dire,

Le pl: est attaint de felony ou treason: est moigne: prestre, mayme per auter, insanus, surdus, mutus, lazar, ou foole naturall.

Le pl: auterfoits fuit nonsue in appele de meisme le felony apres declaration, ou fist vn Retraxit, ou que le def: fuit attaint et acquite al suite le pl:

Le pl: ad releas al defendant.

Licet le pl: pleade issint in barre, tamen in fauorem vitæ il poet pleader ouster al felony, et son plee ne serra dooble, sinon in le case del releas, car per ceo il confesse le felony per implication: et quant le def: in appeale de robbery, pleade villenage in le pl: car sil concluderoit ouster al felony, le pl: serroyt enfraunchise.

444: Barres all Inditement, come pardon le roy, vide Stanf. a pag: 99. ad 105. diuers statutes des Charters de pardon, et coment ils serront pleades.

OO. Auterfoits acquitt de meisme le felony, vide Stanf. 105. &c. n'est plee iam in appele de mozt per lest: 3. H. 7. cap. 1. sic auterfoits conuict ou atteint semble bon plee, nisi il debzusoit le pzison del ozdinary et escape; car la il serra auterfoits arraigne sur l'inditement.

R.R. Sanctuary doit estre pleade al commencement sur l'arraignement, icy

1. Definit sanctuary.

Sanctuary est vn lieu priuiledge per le prince pur le salegard del vie del offendor.

Fuit foundue sur le le ley de mercy, et sur le deuotions des princes al certeine lieues.

2. Agit del sanctuary men

Queux auerõt le priuiledge del sanctuary, queux non, vide plusors statutes reherses per luy, 208. &c.

Quomodo ils serrom vse et demesnes. Vide statutes cites 115. &c. huc pertinet Abiuration, que est

1. Define, Abiuration est vn serement, q; home prist quant il ad committ ascun felony et fua al eglise ou cimitory pur tuition de sa vie, esly-ant pluistost perpetuall banishment hors del realme, que a estoyer al ley, et destre try del felony.

2. Latius explicata, et reherse diuers statutes, 117. &c. del viage des abiurors in Itinere &c.

555. Clergy

1. del Clergy

briefement per description,

Clergy est vn auntient libertie del saynt eglise qua quiconque poet lyser, si soyt arraine de felony deuant seculer iudge, poet suer destre dismisse al ordinary, de faire sa purgation del dit offence. Liser come clerke, est lyser tout le verse. Licet speller.

Largely per adiuncts

Quant Clergy serra pleade,

Non sur son arraignement. vt quondam, eins il serra mise al responder al felony, et sil soyt troue culpable a son mise demesne, donq; il demandera sa Clergy; si non que le prisoner voyle Wayuer le benefite del ceo, et pryer son lyeur sans oyer le verdit.

Que serra iudge d'allower ou disallower ceo, s. le tẽporall court.

Car il appoynt le verse.
Il mett fine sur l'ordinary, sil dist, que Lysa, quant ne Lysa.
Il allowa clergie in absence del ordinary. Issint le court ne vsa l'ordinary forsq; come minister a confirmer lour iudgement, quia est eruditus.

2. Del clerke

quis auera ou non

per comon ley.

Il que ad ascune impediment destre prest, come blinde, mayme, sacrilegus n'auera, sic insidiatores viarum, depopulatores agrorum. Cestuy que tua se defendendo, ou per misaduenture n'auera, nec petite laron, car ne sont de prendre iudgmẽt de vie, traytor n'auera: cestuy que confess felony n'auoit tanq; lest. artic. Cleri. Il que auoit semel, aueroit rursus per comon ley tanq; lest. 4. H. 7. 13. mes home deins orders videtur exemptus. Bigamus auoyt tanq; lest. de Lyons, et oze lest. 1. E. 6. 12 accorde oue le comon ley in Bigamy.

Per lest. vide Stan. 125. vide lest. 1. E. 6. 12. 2. & 3. E. 6. 33: 5. & 6. E. 6. 10. & 9. 1. & 2. P. & M. 4.

Quomodo serra vse, cap. 48, 49, 50, vbi, de purgation.

- H.H. Purgation fit per inquest des Clerks 139. ostendit.
  - Quel Clerke,
    - Ferra sa purgation:
      - Clerke convict: et est celuy que pria son Clergy devant iudgement done sur luy del felony, et ad sa clergy allow: tiel Clerke poet faire sa purgation, si non in speciall cases.
    - Ne ferra
      - Clerke attaynt, et est celuy que pria son clergy apres iudgement, et ad son clergy allow, il ne ferra son purgation, eoq; quant il est condemne del felony per iudgement, il ne peut contrary al iudgment estre purge de ceo, le dit iudgmēt remainant en sa force, itaq; vel paret pardon, vel demurrat in prison tout sa vie.
  - Ou, non obstant Clergy allow, il ne ferra deliuer al ordinary eins remaynera in prison le roy.
    - Si abiurors reuyent sans lycence, et esteant al barre, demaund sa Clergy, et ad ceo allow, vncore il ne ferra deliuer al ordinary, eins ferra mise a prison le roy tanq; il ad purchace pardon pur son reuenue: car comentq; le Clergy excuse le felony, vncore il ne tolle le contempt de reuenuer in le realme sance lycence.

1. Le nature et fozme del ceſt ple. — Car il pledza primùm ſon ple, et pziera allowãce de ceo, et ouſter, quant al felony, Rien culpable.

444. Rien culpable exponit.

2. Les adiuncts.

Il eſt le plus vſuall plee ſur appele ou Inditement.
Quia trench al fayt, il eſt mult fauour in ley, car il auera ceſt plee puis que il ad plede in abatement ou barre del appeale ou inditement.
Cheſcune que eſt arraigne ſerra enfozce a ceſt plee, ſi non que il ad matter de Juſtification ou matter en ley de pleder, come ſil tua le home de neceſſitie ineuitable pur aduancer Juſtice, 13. 14. ou ſil tua ſe defendendo, mes icy le neceſſitie doyt eſtre ineuitable. 13. 14. 15. 16.
Mes in ceſt ple de rien culpable, nauera aſcune counſayle vers le roy ſur inditement (contra in appele) mes pledza in pzo per perſon niſi le plee excede ſon connyng, quià cùm ceſt plee va al fayt, et le party meſme conuſt le fayt optimè, il poet mieux reſponder al ceo, et ſil auoyt counſell, ils oue lour ſophiſtry turbarent omnia, ou, ſi le party meſme parla, ſon cõſcience luy poet ſtimuler, ſon geſture et countenaunce poyent declarer le verity, ou ſon ſymple parlance &c.

Quel peruersity ceo doyt estre,

Quant cestuy que est arraigne sur felony (car in treason null tiel matter, vide lest. West. 1. cap. 12.) riens responde, eins estoit mute de malice et mal volunte, ou plede tiel matter que nest ascun responce al felony, ou tiel peruerse matter que ne directment respoigne, ou fayt tiel conclusion sur son plee, que il ne peut auer ascune tryall.

10. 10. 10.
Peruersly, vbi il expounde,

Quomodò il serra vse, per peyne soyt et dure:

Il serra remaunde al prison dont il vyent, et mise en vne base meason estoppe, et la girra nude sur le nude terre sans ascune littour, strys, ou auter drapes, et sans ascune garnishe enuyron luy, sauant vn chose que couera ses priuy members, et que il girra sur son dosse, et que son teste soit veste, et ses pees estrahees, et que vn brache soit trahe al vn quarter del meason oue vn cord, et lauter brache al auter quarter, et in mesme le maner soit fait de ses iãbes: et q; sur son corps soyt mise fer et pier tant come il poet porter et pluis. et le primer iour ensuant, il auera pane fayt de barly, troys morsells sans ascune boyer, et le second iour il boyera trois foits, tant sicome il peut del eawe que est procheine al huise del prison, except eawe currant, sans ascune pane, et ceo serra son dyet tanq; il soyt mort.

1. Exponit le nature del appzouer.

Largly per adiuncts.

briefly per description del etymology del nosme.

Il peut appzouer, s. accuser auters qui fueront coadiutozs oue luy de fayze felony.

Hinc dicitur appzouoz, s. probator, coque il doyt pzouer, vel per battail, vel per pais, al election l'appellee, ceo que est cõteigne en son appeale.

De queux offences home appzouera, s. de ceux felonies tantùm queux il ad fayt oue auters.

En queux actions

In null action, nisi inditement soyt action, car in appeale il ne appzouera, car sic il delayeroit le pl. dauer execution de luy, mes il poet connuster l'inditement, et pzier cozoner, et sic appzouer.

Deuant queux

Ceux que poyent assigner luy Cozoner, come Justices de bankes, Eyze, Gaoledeliuery. cõtra de Just. de peace, Steward & sutozs in court Barõ, vicount et sutozs in le county court, sans commission.

coment il serra vse,

deuant son appzouer.

Il doyt confesser et pzier le Cozoner deuant ascune ple plede. sil mentu, le court luy tollera de son appele. Il serra iure d'appeller de touts felonies et treasons que il sacha, certen nomber des tours serra a luy appoynt, in chescune de queux, il doyt appzouer, ou serra pendus.

Il auera gages chescun tour i. d. del roy. quant le cozoner est assigne a luy, il serra lesse hozs del pzison, vt appellet sans coertion.

apres

Quant il ad fayt son appeale deuant le Cozoner il rehercera ceo deuant Justices, car ils ne voylẽt iyer ceo a luy, et sil fayle in ascun paroll que le Cozoner ad recozd, il serra pendus, come sil dit blanche chyuall pur rouge &c. Car per le repugnancy serra intende que il mentu.

7777777.

Confession est le pluis sure respõce: apzes confession il poet appzouer: appzouoz auera sa vie, quia il cõbata pur le peace, mes serra bãnis le realme.

vide, a a a. 2.

- aaa. 2. Dappellee vbi exponit.
  - 1. le proces vers lappellee.
    - Si lappellee ſoit in meſme le coũty ou lappeale eſt fayt le Coroner agardera proces tanq; al exigent.
    - Si in auter county, tunc les Juſtices deuant queux le Coroner record le dit appeale, come Juſt: de banck, et Eyre per comon ley, et del gaoledeliuery, per ieſt. de 28. E. 1.
  - ſes exceptions vers l'approuor.
    - Que il eſt attaynt de treaſon ou felony.
    - Que il eſt Clerke conuict.
    - Que il neſt impriſon pur felony ou treaſon, eins pur dette ou treſpas.
    - Que il n'eſt priſoner, eins alarge.
    - Que il eſt deins age, ou ouſter l'age de 70. ans, preſtre, feme, maime &c.
    - Si l'appellant apres ſon appele, eſt pendus, ou priſt ſoy a ſon clergy, le roy poet purſuer l'appellee, et auer luy arraigne &c. Imò ſi ſoyt deſtre diſcharge vers le roy et party, le court poet luy iyer de ſe benè gerendo.

T. T. Maner

T.T. Maner del Tryall.

- In inditement est vel,
  - Proper al peres del realme, s. per 12. pares al meynes,
    - Vide le order, Stanf. fol. 133. & ceo serra tantùm in Judgements, et nemy in appeles.
  - Comõ as auters, s. per pais, per hões de vicineto ou le felony fuit fait, et serue al Inditement et appeale. exponit.
    - 1. De quel county le pays vien dra.
      - Vide lest. de 2 et 3. E. 6. cap 24 quant felony est fayt en vn county, et le receipt in auter, le tryall in vn, et bon. Vide lest. 22. H. 8. cap. 14. & Stanford. pag. 154.
    - 2. per quel proces, s. venire facias: Habeas corpora: Distingas, hîc del,
      - Tales, 155.
      - Nisi prius. 156. 157.
      - Challenge.
        - peremptory sans cause in fauorem vitæ, al nomber de 35. per comon ley, mes per lest: 22. H. 8. cap. 14. tantùm. 20.
        - per cause
          - Come, il fuit son Inditor &c.
          - Et al array, si touts sint engloys vers estranger.
          - Item pur defaut de franckstenement, Vide lest. de 27. Elis.
      - Euidence, chescune serra admit a doner euidence pur le roy. 163.
      - verdit, estq;
        - vel generall.
        - Special, s. alarge, quant ils doubtont an soyt felony.
- In appeale hîc triall per battayle est allowe.
  - Le order del cõbate ex Britton, 41. Vide Stanf. 117.
- Si appelle plusors d'un felony, il cõbatera oue touts, lune apres l'auter: describit,
  - Les counterpleas al battayle, s.
    - Acune presumption, come si fuit endite pur ceo, ou prise oue le manor.
    - Que il esteant arrestu, sua, ou debrusa le prison.
    - Imbecilitie in l'appellant, si soyt maime, deins 14. ans: ou ouster 70.
    - Deins order, ou feme.
    - Item priuiledge del person, come si soyt arraigne al suite le roy in lappeale. Le def. acquite recouera dammages vers le pl: ou, si ne soit sufficient, vers les abettors. Vide Stanf. a pag. 168. vsq; ad 117.

Del felony, quòd ſuſpendatur per Collum.

Exponit les ſeueral iudgmentes, ſ.

Treaſon

Grande,

In home, Il ſerra reamenue al lieu dont il vient, et ſerra traine ſur vne hurdle ieſq; al lieu dexecutiõ, et la deſtre pendus per le colle, et viue deſtre decoupe, et ſes entrayles et pryuy members deſtre exciſes de ſon corps, et combures deins ſon view, et ſon teſte deſtre abſciſſe, et ſon corps deſtre dyuyde in quater parts a diſponer al volunt le roy.

In feme, deſtre traine et combure tam in grande treaſõ quàm petite.

Si feme ſoit enſeinte de viue enfant, el ſerra ſemel reſpite del execution, mes le iudgement ſerra done mayntenant.

Petite: In home, eſt deſtre traine et pendus. pur miſpriſion il forfetra ſes biens, mes nemy terres forſq; pur vie, et ſerra in perpetuall priſon. q. Vide Stanf. 37. 38. diuers ſeuerall penalties accordant al offences.

X.X. Final iudgment, vbi,

les penalties, que enſuõt ceſt Judgemẽt, & implicantur etſi non exprimuntur.

Corruption del ſangue vient per atteinder del felony ou treaſon, iſſintq; les infants ne poyent eſtre heires a luy, ne al aſcune auter auncеſtor. Et ſil fuit noble ou gentleman deuant, il et touts ſes infants ſont deuenus ignobles, et ceſt corruption ne poet eſtre ſalue forſq; per Parlement ſolement.

Forfeiture. ωωω.

Clerke conuict forfetra ses biens, comentq; ad fayt sa purgation, et les issues del terre que il ad in son droyt, ou in droyt sa feme, tanq; il ad fayt sa purgation.

Home forfetra son droyt al biens, et chose in action, come obligation &c.

Item il forfetra biens in queux il n'ad ascune proprietie, come ieo bayle argent hors del bag a rebayler a moy, le baylee est attaynt, le roy auera l'argēt, car ne poet estre conues &c. quia hors de bag.

Home forfetra ses Chatteaux sur fugam fecit comentq; soyt acquitte del mesme le felony, ou ad son charter de pardon pur mesme le felony. cest fuer en fayt.

Biens pur treason et felony.

Home forfetra ses biens sur exigent agard, sur vn fuer en ley, comentq; soit acquyte del felony.

Home poet forfeter ses biens sans attainter per presentment apres sa mort, Come

Felo de se.

Home arrestue fua, et est tue in le pursuyte, ou si soit tue deuāt le arrest, repugnando, &c.

Home que ieua guerre, et est tue in ycell.

1. que serra forfet, &c.

Forfeiture.

Quant vn est troue culpable del homycide deuant le Corōner, le Corōner seisera ses biens et lyuera al ville. Sur fugam fecit troue deuant le Corōner, le vicount ferra in mesme le maner. Mes si vn soyt indite del mesme le felony, ses biens ne serront remoues hors de sa meason tanq; il soyt attaynt, eins serront en garde les vicins, et le felon auera viands de ceo. Le ville serra charge oue le custody des biens, nisi ils poyent monstre, que auter ad eux. Mes le vicount est semper chargeable oue les issues del terre.

Vide *** 2.

Vide λλλ

2. Quant

Tenant pur vie ou ans ne forfetra forfq; pur son terme, sic pur petite treason ou felony, tenant in tayle ne forfetra forfq; pur sa vie, contra in grand treason, per lest 5. et 6. E. 6. cap. 11. et per mesme lest home ne forfetra terre que il ad in auter droyt, come in droyt sa feme, sa eglise &c. vna cum terre, les charters del terre serront forfets.

xxx. Terres et droyt del terres serra forfet pur treason ou felony. mes hic l'estate serra consider, car

Pur treason del barō, (grād et petite) le feme perdra sa dower; mes nemy pur felony, per lest. 1. E. 6. cap. 12. 5. & 6. E. 6. cap 11.

In petyte treason ou felony le roy aura l'an, tour, et Waste des terres que sont tenus d'auter que de luy, et donq; le seignior aura lescheate, mes in grand treason, le roy aura lescheate, de quocunq; le terre soit tenus.

In terres il relate al temps del act fayt mayntenant, itaque si il done ou alien ayres le fayt, le relation del attaynder defeatera tout.

*** 2. quant serra forfet, Relation del forfeture.

Mes in biens nest illint, car le done de eux inter le felony et lattaynder, est bon.

FINIS.